



Queensland Audit Office
better public services

Criminal justice system— prison sentences

Report 4: 2016–17



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29 November 2016

The Honourable P Wellington MP
Speaker of the Legislative Assembly
Parliament House
BRISBANE QLD 4000

Dear Mr Speaker

Report to Parliament

This report is prepared under Part 3 Division 3 of the *Auditor-General Act 2009*, and is titled *Criminal justice system—prison sentences* (Report 4: 2016–17).

In accordance with s.67 of the Act, would you please arrange for the report to be tabled in the Legislative Assembly.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Anthony Close', is written over a light blue horizontal line.

Anthony Close
Auditor-General (acting)

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Summary

Offenders enter the criminal justice system after police charge them with criminal offences. They progress through the courts as defendants. Magistrates or judges (depending on the level of court) hand down sentences for those found to be guilty of committing the crime with which they are charged. The courts sentence some defendants to terms of imprisonment, in which event they become prisoners and go into the custody of Queensland Corrective Services.

The courts sentence people to time in prison as a way of:

- protecting the community
- punishing prisoners for breaking the law
- deterring people from offending
- rehabilitating prisoners.

Achieving the intended sentence outcome is dependent on how efficiently and effectively the court's prison sentence is administered.

The Queensland Police Service and the Department of Justice Attorney-General—through its Queensland Courts Service and Queensland Corrective Services—play key roles in administering prison sentences. Throughout this report, we refer to these entities collectively as criminal justice entities and the services that they collectively provide in administering prison sentences as the criminal justice system.

The courts manually enter a court's order for a prison sentence into the Queensland Wide Interlinked Courts (QWIC) system. The sentence is communicated to Queensland Police Service and Queensland Corrective Services staff in a document called a verdict and judgment record. The Queensland Police Service receives court results electronically via a message sent between QWIC and Queensland Police Records Information Management Exchange (QPRIME). This system messaging is being expanded to include Queensland Corrective Services.

The key legislation guiding sentence calculation is the *Penalties and Sentences Act 1992*. The criminal justice system has a variety of internal guidelines, procedures, and training for sentence calculations as well as guidelines for reporting errors when they occur.

Queensland Corrective Service staff at correctional centres use the court's orders to calculate the prison sentence and enter it into the Integrated Offender Management System (IOMS). Queensland Corrective Services (and at times, the Queensland Police Service) are then responsible for enforcing the prisoner's sentence.

Some sentence calculations are simple. Others are more complex, involving considerations such as multiple convictions, specific sentence requirements under various State and/or Commonwealth legislation, and consideration of time the prisoner has served on remand awaiting trial (known as presentence custody). If those who calculate the sentence get it wrong, they can expose the community to risk by releasing prisoners early into the community (called a discharge in error) or infringe on prisoners' rights by holding them longer than they are legally entitled to (called an unlawful detention).

Sentencing errors also expose the state to unnecessary costs associated with managing prisoners beyond their sentence, locating and returning prisoners released in error, and managing complaints, compensation, and legal costs.

Two previous reviews into discharge and detention errors, in 2009 and 2014, highlighted weaknesses in the sentence administration processes and recommended alternative sentence calculation models. Queensland Corrective Services implemented changes intended to address these weaknesses. Also, until 2014 a working party with representatives from across the criminal justice system investigated ways to reduce sentencing errors.

Nevertheless, sentencing errors do occur. Because of the adverse consequences to the community, individual prisoners, and their families, criminal justice entities must address these errors in a manner that prevents future occurrences. In doing so, it may be necessary for the criminal justice entities to consider challenging questions, specifically:

- how transparent should the public sector be in reporting discharge and detention errors?
- what is the appropriate course of action when errors are found?

This audit examined how well the Queensland adult criminal justice system exchanges and records data to calculate and administer custodial (prison) sentences accurately. We focused on the public sector entities carrying out sentences. We did not consider the decisions and sentences of magistrates and judges as part of the audit.

This is the first of two reports from our wider performance audit on criminal justice data.

Audit conclusions

Efforts to address process and system weaknesses, identified through earlier reviews, have not been effective. The number of errors has fluctuated from year to year, but the overall trend is increasing. The gaps we identified in detection, quality assurance, recording, and reporting processes indicate that further errors beyond what we have collated from entities' records may have occurred but gone undetected.

Criminal justice entities do not record and manage sentence errors in an integrated way. Instead, each entity follows its own approach, and only records, reports, and addresses those errors they attribute to themselves.

The entities responsible for calculating and administering sentences do not collate their records to measure the number of prisoners being released in error or unlawfully detained across the criminal justice system. As a result, the full extent of errors is unknown and senior executives of the entities and the ministers are, therefore, not informed well enough to enable effective governance.

This also leads to these entities lacking a complete understanding of the root causes of errors in calculating and administering sentences. Without this and a whole of justice system improvement approach, any new attempts at preventing errors are unlikely to be any more successful than previous efforts.

The errors are frequent and the impact can be significant. Effectively minimising and managing these errors is essential to instil public confidence in the administration of justice.

Audit findings

Sentence administration errors

Between 2004–05 and 2015–16, the criminal justice system made a total of 329 identifiable discharge and detention errors—these resulted in 238 prisoners unlawfully detained and 91 discharged in error.

The criminal justice system is discharging prisoners in error and detaining them unlawfully in increasing numbers and at an increasing rate per prisoner managed. In 2005–06, the rate of discharge and detention errors was 0.66 per 1 000 prisoners managed by the system. Last financial year, it was 1.63 errors per 1 000 prisoners managed. The entities may have made other undetected errors, as some errors only come to their attention after prisoners released in error commit other offences.

Number of days in error

When errors were made in unlawfully detaining prisoners between 2004–05 and 2015–16, they were for an average of 15 days, and ranged from one day to 313 days. The prisoners discharged in error were on average released 51 days earlier than they should have been, and ranged from one day to 963 days. This does not mean that in all cases the prisoner actually spent that amount of time in the community. In some cases, the prisoner was subsequently returned to custody by warrant or because they were arrested for committing further crimes.

These errors attract costs associated with locating and returning those discharged in error, as well as accommodating and sustaining those unlawfully held. Prisoners unlawfully held occupy space in already overcrowded prisons.

Types of errors

Process and communication issues within and between criminal justice entities represent the most common type (73 per cent) of error. Process and communication errors relate to failures in sending, receiving, or actioning verdict and judgment records and court or parole orders, as well as instances of releasing the wrong prisoner.

The other types of error were incorrect data entry (15 per cent) and inaccurate sentence calculations (12 per cent). Court staff have at times incorrectly interpreted the handwritten decision of a magistrate or judge when entering it into the QWIC system to produce the verdict and judgment record. This is a contributing factor to data entry errors. This, and inadequate quality assurance processes within the courts, also creates inefficiencies, with Queensland Corrective Services staff needing to verify the content of verdict and judgment records and check them against sentencing transcripts.

Training and quality assurance practices

Workload pressures contribute to an increasing risk of errors.

Staff responsible for calculating complex sentence calculations are provided limited training. These staff may also be under additional workload pressures, with IOMS data showing the number of sentence calculations increasing over recent years. Sentence calculations increased from 478 calculations per staff member in 2011–12 to 534 in 2015–16.

These staff also perform various sentence management activities other than sentence calculation.

Queensland Corrective Services provides initial training to staff by having them read the training manual. There is no ongoing training program in place for sentence management staff. The increasing error results indicate that the quality assurance checks conducted by Queensland Corrective Services are not sufficiently mitigating this risk.

Quality assurance procedures to minimise or prevent errors are not always adequate or practiced, and in some cases are non-existent. For example:

- Queensland Corrective Services does not always follow its quality assurance processes to prevent discharge and detention errors. This includes checking verdict and judgment record details against sentencing transcripts, and procedures and checklists to ensure sentence calculations are correct.
- The Queensland Police Service does not have procedures that specifically address discharge and detention errors from its watch houses or for the preparation and verification of presentence custody certificates.
- Queensland Court Services lacks processes to check the accuracy of verdict and judgment records before issuing them.

Managing and reporting errors

Criminal justice entities are not responding appropriately to discharge and detention errors.

Returning offenders to custody

Some prisoners discharged in error avoid serving their full sentence because criminal justice entities do not detect the error until after the prisoners' sentence or order has expired. Section 112 of the *Corrective Services Act 2006* states that the period during which a prisoner is unlawfully at large does not count as part of the prisoner's period of imprisonment. Despite this, the entities are of the understanding that once an order has expired they do not have the legal authority to return the prisoner to custody.

For those prisoners who are returned to custody, Queensland Corrective Services does not always adjust the prisoner's calculated release date for 'time at large' (that is, the time a prisoner discharged in error is back in the community) to ensure the prisoner serves their full sentence.

Similarly, because the Queensland Police Service maintains inconsistent records on individual prisoner files, it is unable to demonstrate how often it returns prisoners discharged in error to custody.

Informing people affected by errors

Queensland Corrective Services is also not informing prisoners unlawfully detained of the sentencing error of their rights. Queensland Corrective Services reports that its processes include informing people affected by these sentencing errors that the error has occurred; however, these processes are not being followed. Because the Queensland Police Service does not record unlawful detention errors, it has no records to assess whether it informed offenders or prisoners of its errors.

Recording errors

There is no single consolidated record across the criminal justice system of known discharge and detention errors.

The Queensland Police Service records its discharge errors inconsistently across two systems—QPRIME and its Ethical Standards Command's complaint databases. But, it does not record its unlawful detentions in these or any other database. It is therefore unaware of all discharge and detention errors. It maintains individual custody records for each offender, which includes detention and release details. The extent to which any details of discharge or detention errors are recorded is variable and open to the individual officer's discretion.

The courts have specific records held by two units of the Department of Justice and Attorney-General, but these are not collated or cross-checked.

Queensland Corrective Services has better recording practices for errors, but they only action those errors where they attribute the cause to themselves. Where they attribute the cause to other entities, courts, or the Queensland Police Service, they advised us that they notify the entity. However, in the majority of instances, Queensland Corrective Services could not provide evidence of the notification and the errors were not recorded in the corresponding entity's databases or documents.

The entities never integrate their records to cross check and validate the information, and to provide a complete picture of the full extent and nature of errors across the criminal justice system.

Reporting errors

Queensland Corrective Services publicly reports on escapes but not discharge errors. Discharging prisoners in error has a similar effect to escapes—both result in prisoners being in the community when they should not be. Between 2004–05 and 2014–15, 61 prisoners escaped from correctional centres. All of these prisoners escaped from open security facilities; none from secure facilities. In comparison, the criminal justice system discharged 80 prisoners in error from a mix of secure and open security facilities between 2004–05 and 2014–15.

While liaison and some collaboration does occur between individual entities for specific cases, the entities no longer collectively assess and investigate the cause of errors across the criminal justice system. The entities have processes of variable quality for assessing and investigating the cause of errors.

The lack of integrated reporting across the criminal justice system means senior executives of the three entities, the ministers, and the parliament are not informed of the full extent of discharge and detention errors. As such, they are ill equipped to address the root cause of errors.

Investigating errors

There are disparate formal and informal processes across the criminal justice system for investigating and addressing the cause of discharge and detention errors, but they are inconsistently applied. Generally, the three entities address them as they individually see fit.

There is no evidence that some errors are investigated. Where Queensland Corrective Services attribute an error to either the Queensland Police Service or courts, in most cases there was no record of the error in the Queensland Police Service or courts' files.

Criminal justice system changes

Since the reviews in 2009 and 2014, criminal justice entities have implemented various measures to address discharge and detention errors.

From 2009 to 2011, Queensland Corrective Services established a sentence calculation project to design and implement short-term risk mitigation strategies and to design an improved and sustainable business model for the delivery of sentence administration functions. This resulted in the:

- development of a sentence calculation procedure and manual
- delivery of statewide sentence calculation training for Queensland Corrective Services staff
- enhancements to IOMS
- establishment of an interagency working party
- appointment of key agency contact people.

The effect of some of these changes were short term because the statewide sentence calculation training was not ongoing and the interagency working party was disbanded around 2014. It was replaced in 2014, by an 'expert reference group', which was established by the Department of Justice and Attorney-General and included courts and Queensland Corrective Services, but not the Queensland Police Service. The group convened until 2015. During the audit, the Department of Justice and Attorney-General decided to re-form this group. It has invited the Queensland Police Service to participate.

Increased demands on courts means that at times they sit outside of standard business hours. Queensland Corrective Services was slow in adjusting its staffing to accommodate receiving verdict and judgment records late in the day or after hours. This increased the risk of prisoners not being able to be released when they should be. Recently however, Queensland Corrective Services has started rostering staff on later shifts. Courts have a standing practice of providing afterhours contact information to Queensland Corrective Services.

The electronic transfer of courts results has been in place between Queensland Court Services and the Queensland Police Service since September 2009. This was to address some of the process and integration issues related to the communication of verdict and judgement records. At the time of development, Queensland Corrective Services opted out of the program, resulting in the electronic transfer of courts results not being available to it. In November 2015, Queensland Court Services and Queensland Corrective Services commenced a project to expand the electronic transfer of courts results to Queensland Corrective Services and this has included a pilot program.

However, electronic transfer of courts results alone will not address all of the process and communication risks. For example, the process for transferring prisoners from Queensland Corrective Services custody (prison) to a Queensland Police Service watch house to attend a court hearing presents a risk for discharge and detention errors. It increases the risk of communication and process errors because of the cross-agency involvement, the number of people involved throughout the process and the reliance on manual inputs, and lack of system integration.

Despite these and other initiatives, the overall trend in discharge and detention errors has increased between 2004–05 to 2015–16.

The government has committed to establishing a crime statistics body, but the role and functions of this body are still being determined. In determining the role of the proposed criminal justice statistics body, the government should have regard to the need for integrated criminal justice reporting.

Recommendations

We recommend the Department of Justice and Attorney-General in collaboration with the Queensland Police Service:

1. better integrate the sentencing administration processes and quality assurance to reduce the risk of error, including:
 - improving the sharing of sentencing information and documents across criminal justice entities
 - making greater use of technology such as remote (electronic) appearance of prisoners in court to reduce process, communication, and data entry errors associated with the transfer of prisoners; and providing means for direct entry of sentence orders into QWIC
 - strengthening quality assurance practices.
2. assess the need to review relevant sentencing legislation to reduce the complexity of sentence calculations
3. ensure the appropriate capacity, capability, and training of staff responsible for the calculation and administration of sentences across the criminal justice system is in place
4. improve the accuracy and level of detail recorded about discharge and detention errors. Consolidate the recording and reporting of the errors within and across the three entities
5. formalise, implement, or update where necessary, policies and procedures for responding to, managing, reporting, and investigating discharge and detention errors. Policies and procedures should address as a minimum:
 - communication protocols for prisoners affected by, and individuals potentially at risk from, discharge and detention
 - assessment of risk to the community and individuals and where needed mitigation strategies
 - reporting requirements within individual entities and across the criminal justice system
 - investigation of discharge and detention errors (collaboratively where appropriate)
 - quality checks to ensure that processes are followed.

Reference to comments

In accordance with section 64 of the *Auditor-General Act 2009*, we provided a copy of this report to the Department of Justice and Attorney-General and the Queensland Police Service for comment.

We received formal responses from the Department of Justice and Attorney-General and the Queensland Police Service. Their responses are in Appendix A.

Report structure

Chapter	
Chapter 1	provides the background to the audit and the context needed to understand the audit findings and conclusions.
Chapter 2	evaluates the extent, effect, and causes of discharge and detention errors across the criminal justice system.
Chapter 3	assesses how effective the criminal justice system is in identifying, recording, investigating, and addressing the discharge and detention errors.

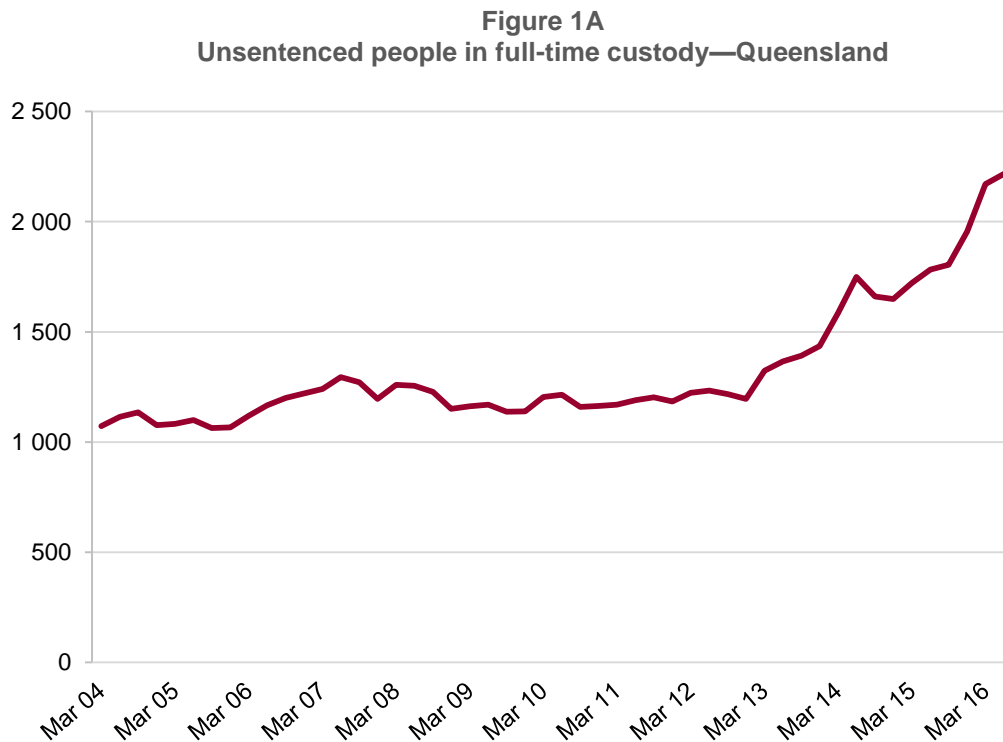
Report cost

This is the first of two reports on criminal justice data. The audit to date cost \$450 000.

1. Context

Between 2004–05 and 2015–16, Queensland Corrective Services managed an average of more than 19 000 prisoners annually. This does not include offenders held by the Queensland Police Service in watch houses on short-term remand.

Figure 1A shows the increase in unsentenced people in full-time custody in Queensland between March 2004 and March 2016.

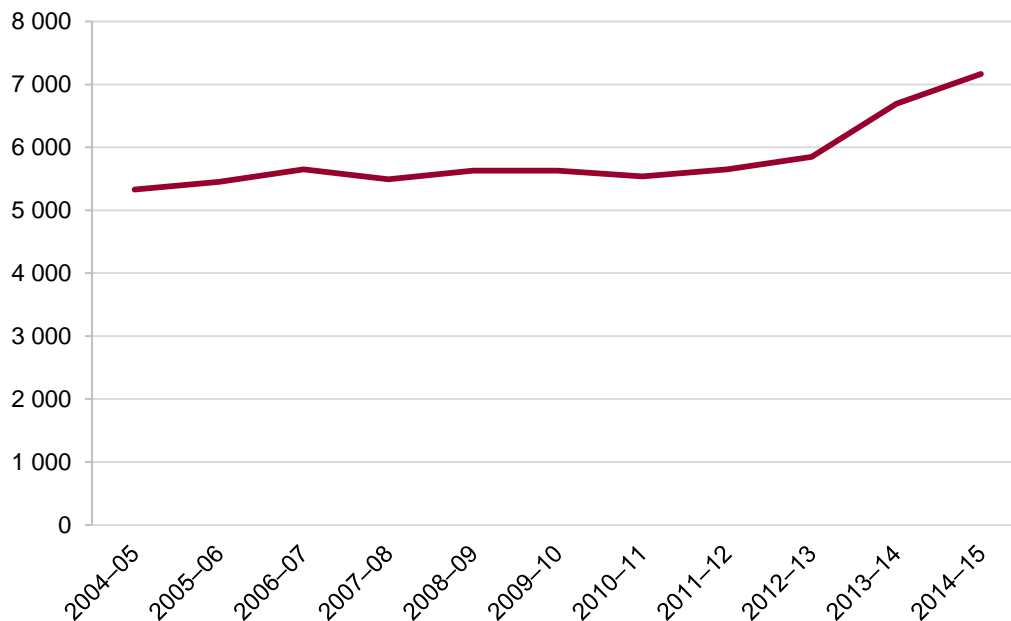


Notes: Figure 1A captures the average number of unsentenced people on the first day of the month. It excludes unsentenced people who are in the custody of a Queensland Police Service watch house.

Source: Australian Bureau of Statistics, catalogue 4512, persons in full-time custody.

On any given day between 2004–05 and 2015–16 there were almost 6 000 prisoners in Queensland prisons. Figure 1B shows that during the past 11 years to 2014–15, Queensland's average daily prison population has increased by over 34 per cent from 5 329 prisoners to 7 167.

Figure 1B
Queensland's average daily prison population



Note: The Productivity Commission had not published data for 2015–16 at the time of the audit.

Source: *Productivity Commission's Reports on Government Services, 2006–07 to 2014–15.*

Queensland Corrective Services calculates the sentence for each of these prisoners to determine how long they stay in prison.

A sentence is the penalty handed down by a judge or magistrate when a person (the defendant) pleads guilty or the court finds them guilty of an offence. Queensland Corrective Services calculates and administers the sentence based on the court's orders.

It is important that Queensland Corrective Services calculates and administers sentences correctly to ensure it holds prisoners lawfully for the required period of their sentence. Similarly, at times the Queensland Police Service is required to determine whether to release or continue holding offenders and prisoners in their custody.

If Queensland Corrective Services or the Queensland Police Service get it wrong, they might:

- release prisoners into the community earlier than they should (discharge in error)
- unlawfully hold them in prison beyond their sentence (unlawful detentions).

Throughout this report, we refer to these collectively as discharge and detention errors.

Types of sentences

Sentence orders come from the Magistrates, or District or Supreme Court (the courts), depending on the seriousness of the offence. When imposing a sentence, a court will consider not only the offence but also the defendant's criminal history, age, and other relevant factors.

The magistrate or judge can issue:

- non-custodial sentences—such as fines, good behaviour bonds, community service orders, and probation
- custodial sentences—imprisonment, intensive corrections orders, and suspended sentences of imprisonment.

This audit examined how well the Queensland adult criminal justice system administers custodial (prison) sentences.

The criminal justice system

In a broad sense, the criminal justice system comprises police services, criminal courts' administration, and corrective services.

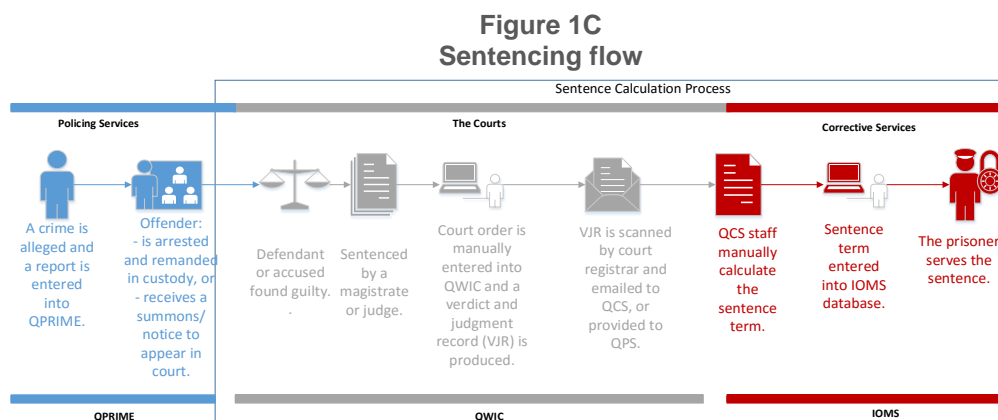
The operations of the criminal justice system require the provision of government services for crime prevention, detection and investigation, judicial processes, prisoner and offender management, and rehabilitation services. These are largely delivered through the three service delivery entities—police services, courts, and corrective services. The Queensland Police Service and the Department of Justice and Attorney-General (through its Queensland Courts Service and Queensland Corrective Services) are the prime agencies for delivering these services. The Office of the Director of Public Prosecutions is an important link between charges being laid by police and cases going to court.

Appendix C shows the pathways an offender may flow through each part of the criminal justice system.

The sentencing process

Flow of offenders

Figure 1C shows the flow of offenders through the sentencing stream of the criminal justice system.



Note: QPRIME—Queensland Police Records Information Management Exchange; QWIC—Queensland Wide Interlinked Courts system; IOMS—Integrated Offender Management system; QCS—Queensland Corrective Services.

Source: Queensland Audit Office.

Offenders enter the criminal justice system after police charge them with a criminal offence. They progress through the courts as a defendant (magistrates court) or accused (district and supreme courts), where they will be given a sentence if found to be guilty of committing the crime charged. The courts sentence some defendants to terms of imprisonment. Upon sentencing, prisoners are returned to Queensland Police Service custody in a watch house where they can remain for up to 21 days (in accordance with legislation), until they are allocated a position within a correctional centre and are then transferred to Queensland Corrective Services custody.

Calculating sentences

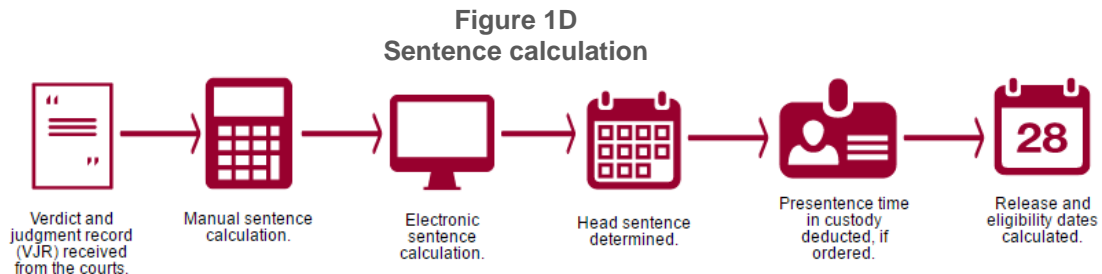
Queensland Corrective Services staff within the Sentence Management Unit calculate prisoner sentences based on information passed to them through the justice system. A number of factors contribute to the complexity of prison sentences and sentence calculation. For example, depending on the circumstances, Queensland Corrective Services has to obtain details from various parties and systems within the Queensland Police Service, the courts, and Queensland Corrective Services. The process usually involves the interpretation and application of the *Penalties and Sentences Act 1992*.

The key components of a sentence calculation include:

- the prisoner's head sentence (the total period of the prisoner's sentence) and any relevant eligibility dates, such as parole or release
- time held in presentence custody.

Calculating the head sentence and eligibility dates

Figure 1D shows the basic sentence calculation process.



Source: Queensland Audit Office.

Calculating the head sentence and eligibility dates is necessary for all prisoner sentences. It involves taking the following into account:

- The head sentence—is the total period of the prisoner's sentence, including the non-parole period and the parole period. For example, if a court sentences a person to five years imprisonment with a non-parole period of two years, the head sentence is five years.
- Eligibility dates—refers to the dates that the prisoner is eligible for release from prison. In the example above, the eligibility dates would be the date when the two-year non-parole period ended and the date the five-year imprisonment period ended.
- The verdict and judgment record—is the document the courts provide to the Queensland Police Service and Queensland Corrective Services with the offender's details. It is the cornerstone of sentence calculation. Without it, the head sentence and eligibility dates cannot be established.

The calculation is relatively simple in many cases, such as prisoners sentenced on a single or small number of charges and with no presentence time in custody. Other cases can become complicated, especially for offenders who:

- serve time in custody prior to being sentenced
- are sentenced for a large number of offences committed on different occasions
- are sentenced for an offence or offences while undergoing an existing sentence.

It is common, especially in the Magistrates Court, for prisoners to be convicted of many charges on the same or different days and, at times, at different court locations, each requiring a sentence. In such cases, the judiciary may order the offender to serve the terms of imprisonment cumulatively, concurrently, or partly cumulatively and partly concurrently.

Cumulative terms of imprisonment mean that the prison terms are added, one after the other, to determine the total time the prisoner must serve.

Concurrent imprisonment means that the prisoner serves multiple sentences at the same time. In these cases, the prisoner's head sentence is the greatest sentence imposed by the court.

Performing the manual sentence calculation

Queensland Corrective Services Sentence Management Unit staff at correctional centres perform a manual sentence calculation, recording it in pencil on the verdict and judgment record. This involves:

- understanding the specifics of the court's order as communicated in the verdict and judgment record, such as length of time ordered to be served (head sentence), parole eligibility to be considered, and concurrent or cumulative orders
- determining and understanding any applicable legislation
- identifying the starting date of the sentence
- performing a manual count of days to determine the applicable dates.

Figure 1E provides an example of a basic manual sentence calculation.

Figure 1E
Example of sentence calculation

Counting using a calendar

On 27 February 2009, a prisoner is sentenced to 1 year 6 months 12 days imprisonment. The sentence is calculated as follows:

	Day	Month	Year	
	27	2	9	<i>Enter start date</i>
+	12	6	1	<i>Add sentence length ordered by court</i>
	39	8	10	<i>Calculate new date</i>
-	01			<i>Subtract 1 day</i>
	38	8	10	<i>End date</i>

Current date is 38 August 2010. As there are 31 days in August a calendar is used to assist in determining the correct date.

August							September						
Sun	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Mon	Tue	Wed	Thu	Fri	Sat
1	2	3	4	5	6	7							
8	9	10	11	12	13	14	5	6	7	8	9	10	11
15	16	17	18	19	20	21	12	13	14	15	16	17	18
22	23	24	25	26	27	28	19	20	21	22	23	24	25
29	30	31					26	27	28	29	30		

The full time date for the sentence is 7 September 2010.

Note: One day is subtracted as part of the calculation to account for the sentence start date.

Source: Queensland Corrective Services extracted from *Sentence Management Services, Corrective Services Manual*.

An example demonstrating a calculation of multiple sentences simultaneously is at Appendix D.

In addition to Queensland Corrective Services staff, Queensland Police Service watch house staff at times are required to calculate sentences of imprisonment in accordance with the terms of various types of warrants. The sentences can be concurrent, cumulative, or a combination of the two. Section 16.19.5 of the Queensland Police Service *Operational Procedures Manual* provides some limited guidance to assist watch house staff with performing these calculations. These calculations are manual.

Verifying the manual sentence calculation

Once a manual calculation is completed, the Sentence Management Unit staff member is required to enter the details of the verdict and judgment record into the Integrated Offender Management System (IOMS). This produces an electronically (system) generated sentence calculation. The Sentence Management Unit staff at the correctional centre review the manual calculation against the electronically-generated calculation to check accuracy and complete a verification checklist. The process, including manual calculation through to verification of the electronically-generated calculation, is to be complete within two days of receiving a verdict and judgment record.

Queensland Corrective Services' central Sentence Administration Unit staff provide a further check to verify the sentence calculation and checklist, which is to be complete within five days of Queensland Corrective Services receiving the verdict and judgment record.

At a minimum, Queensland Corrective Services staff are required to calculate each prisoner's sentence on admission (or intake) and again prior to the prisoner's discharge, or if a prisoner is moved between correctional centres.

Calculating presentence custody

Unless the sentencing court otherwise orders, Queensland Corrective Services, and at times Queensland Police Service, staff must calculate presentence custody for people held in custody prior to being sentenced. For these people, the calculation of their presentence custody and eligibility dates goes hand-in-hand.

A correct calculation relies on the verdict and judgment record containing accurate sentence information and the accuracy of Queensland Police Records Information Management Exchange (QPRIME) and IOMS information on offender dates in custody.

Section 159A, subsection 1 of the *Penalties and Sentences Act 1992* states:

If an offender is sentenced to a term of imprisonment for an offence, any time that the offender was held in custody in relation to proceedings for the offence and for no other reason must be taken to be imprisonment already served under the sentence, unless the sentencing court otherwise orders.

For example, a person might spend three months in custody on remand before the courts sentence them to 12 months imprisonment. In such a case, unless the sentencing court otherwise orders, the person would spend nine more months in prison before being eligible for release (that is, 3 months presentence custody + 9 months imprisonment = 12 months). If the court orders presentence custody not be taken into account the person would be required to serve the 12 months sentence from the time of sentencing.

In order to assist the courts, prosecuting authorities must give the court a presentence custody certificate. Under the *Penalties and Sentences Act 1992*, this is a certificate that details the:

- offence or offences for which the offender was held in custody
- dates between which the offender was held in custody for each of those offences
- calculated time the offender was held in custody.

In calculating presentence custody, Queensland Corrective Services and Queensland Police Service staff rely on accurate and up-to-date QPRIME and IOMS information.

Collectively, the calculations of sentence and presentence custody dictate how long Queensland Corrective Services (and in some cases the Queensland Police Service) can lawfully hold a prisoner.

Changes in sentence or discharge date

During the course of criminal justice entities managing prisoners, circumstances may arise that alter the prisoner's sentence, require recalculation of the sentence, and vary the discharge date. This can include:

- the prisoner being convicted and sentenced for additional crimes
- the prisoner successfully appealing the sentence and therefore being resented
- a prisoner being unlawfully at large due to escape or discharge errors.

Calculating time at large.

Section 112 of the *Corrective Services Act 2006* directs that:

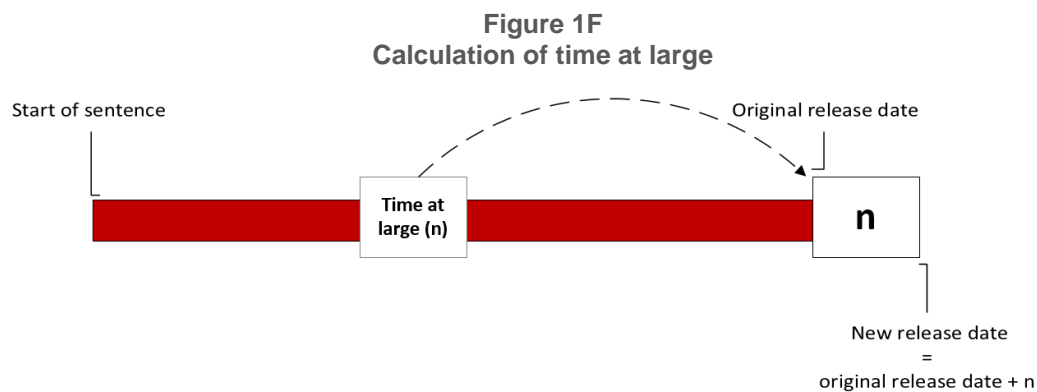
... the period during which the prisoner is unlawfully at large does not count as part of the prisoner's period of imprisonment.

Time at large is a break in a prisoner's sentence during which time they are not serving their period of imprisonment and, in accordance with section 112(5), includes a prisoner discharged in error.

Queensland Corrective Services, in its *Corrective Services Manual—Part 1.10*, refers to Section 112 of the *Corrective Services Act 2006* and instructs its staff:

... calculating a time at large variant into a sentence calculation does not extend the actual period of imprisonment that a court has ordered an offender to serve, rather it allows for an adjustment of the dates to include the time when they were not serving their sentence.

Figure 1F shows how Queensland Corrective Services is to calculate 'time at large' in accordance with Section 112 of the *Corrective Services Act 2006* and the *Corrective Services Manual*, Part 1.10.



Source: Queensland Audit Office adapted from *Queensland Corrective Services Manual, Part 1.10*.

Discharging prisoners

Both Queensland Corrective Services and the Queensland Police Service have procedures for the discharge of prisoners.

Queensland Corrective Services has release/discharge procedures, which are supported by a release/discharge checklist. This includes ensuring the sentence calculation has been done and checked, and that the discharge date is accurate. The completing officer and a checking officer are both required to sign the checklist.

Section 16.19.2 of the Queensland Police Service *Operational Procedures Manual* requires the officer in charge of a watch house to develop release procedures to ensure prisoners are released at the end of their lawful custody. It states that the procedures to be adopted at each watch house are to ensure that, among other things:

- the correct person is being released
- prisoners are not held for longer periods than necessary.

Section 16.19.3 states that watch house managers are to ensure that '*a prisoner who has completed a sentence and who is not otherwise lawfully detained is released.*'

Roles and responsibilities

Queensland Police Service

The Queensland Police Service is responsible for an offender's arrest, where necessary, their remand in custody, and their transfer to and from court or prison.

The Queensland Police Service usually charges people with criminal offences through one of three methods:

- arrest
- complaint and summons
- notice to appear.

A complaint and summons is a written charge sworn on oath before a justice of the peace. It requires the person charged to appear at court on a future date. A notice to appear also requires the person to attend a future court date, but unlike a complaint and summons, is not sworn before a justice of the peace. This is issued by police on the spot.

In contrast, when police arrest someone, they usually take them to a police station or watch house and may lay a criminal charge. They then either release the person on bail or, if bail has been denied, the person will remain in Queensland Police Service custody at a watch house until the next available court sitting day.

For an offender's sentence to be accurately calculated, the Queensland Police Service, the courts, and Queensland Corrective Services all need to accurately record and exchange information.

The Queensland Police Service uses the QPRIME system to record relevant information. The entities rely on the accuracy, timeliness, and availability of QPRIME data, together with information from the courts and the Queensland Corrective Services systems, to make informed decisions about releasing or continuing to detain offenders in their custody.

The judiciary

The judiciary—magistrates and judges—presides over court cases to interpret and apply the law and, where necessary, reach verdicts and sentence defendants and accused. The judiciary is independent of government and not subject to our audit. Therefore, we did not consider the decisions and sentences of magistrates and judges as part of the audit. We focused on the effectiveness of public sector entities in carrying out sentences.

Department of Justice and Attorney-General

Two entities within the Department of Justice and Attorney-General play key roles in administering sentences—Queensland Courts Service and Queensland Corrective Services.

Queensland Courts Service

Distinct from the judiciary, the Department of Justice and Attorney-General, through its Queensland Courts Service, is responsible for the administrative functioning of the courts. This includes:

- administering the operations of the courts
- ensuring the complete, accurate, and timely capture and recording of court information, including verdicts and sentences
- coordinating the functions of the courts with other elements of the criminal justice system, such as the Queensland Police Service and Queensland Corrective Services.

When a magistrate or judge sentences a defendant, court registrars record the court result in the Queensland Wide Interlinked Courts (QWIC) system. They produce a document called a verdict and judgment record that details the sentence. The verdict and judgment record is the key document communicating what needs to occur for that defendant.

Queensland Corrective Services

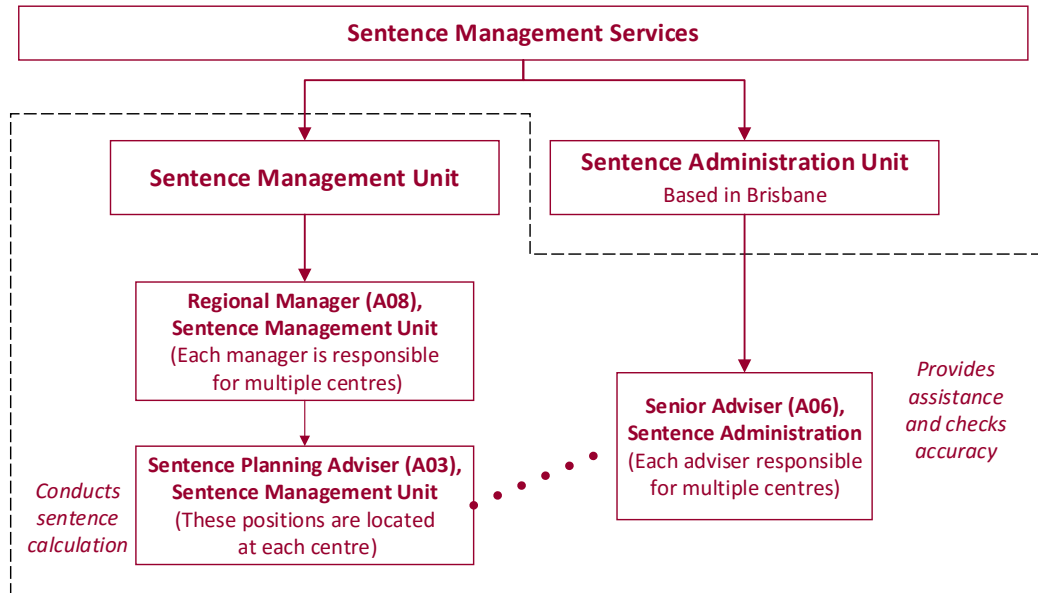
In accordance with the *Corrective Services Act 2006*, Queensland Corrective Services is responsible for humane containment, supervision, and rehabilitation of offenders. It is responsible for enforcing the sentence imposed by the court and must ensure it lawfully detains offenders according to the court's order.

Sentence Management Services is the area within Queensland Corrective Services responsible for administering sentence calculations. Different units within this area are responsible for specific aspects:

- Sentence Management Unit staff at each correctional centre are responsible for calculating a prisoner's sentence; recording the sentence, the court result, and the prisoner's personal details in the Integrated Offender Management (IOMS) system; and administering an offender's discharge.
- The Sentence Administration Unit supports Sentence Management Unit staff in this, providing a centralised oversight of sentence calculation and checking the accuracy of the calculations completed by correctional centre staff.

The sentence planning adviser conducts the sentence calculation and the senior adviser provides assistance and checks accuracy. Senior advisers are located at the correctional centres, although they report directly to the Sentence Administration Unit in Brisbane providing a level of independence to the process. Figure 1G shows the structure of the Sentence Management Services area of Queensland Corrective Services.

Figure 1G
Queensland Corrective Services—Subset of Sentence Management Services structure



Source: Queensland Audit Office adapted from Queensland Corrective Services organisational chart.

The Queensland Police Service and Queensland Corrective Services are responsible for holding offenders on remand and prisoners under sentence, and transporting them to and from courts. This requires timely and accurate input and transfer of information between the databases of the Queensland Police Service, the courts, and Queensland Corrective Services—QPRIME, QWIC, and IOMS.

The Queensland Police Service and Queensland Corrective Services rely on the information communicated to them in the verdict and judgment record to determine what course of action they need to take with offenders and prisoners—whether they release or detain offenders and prisoners in accordance with the court ordered sentence.

The Queensland Police Service and Queensland Corrective Services also rely on timely and accurate transfer of information to plan the accommodation, transportation, and court appearances of offenders and prisoners.

Parole boards

Parole boards are required to determine whether a prisoner is ready for supervised release into the community. They consider the prisoner's sentence, the nature of the offence, and the prisoner's conduct in prison before making a decision on parole. The order may stipulate conditions relating to the prisoner's employment, accommodation, programs to be undertaken, or a specific curfew.

We did not consider the decisions of parole boards as part of the audit. We focused on the effectiveness of public sector entities in carrying out those decisions.

In August 2016, the government established an independent review of the parole system. A report including findings and any recommendations is to be provided to the Premier and relevant ministers by 30 November 2016.

Relevant laws and guidance

The two main pieces of legislation relevant to the sentencing and sentence administration of prisoners are the:

- *Penalties and Sentences Act 1992* (QLD)
- *Corrective Services Act 2006* (QLD).

In addition to state legislation, Queensland courts (particularly supreme and district courts) are increasingly required to apply Commonwealth legislation, adding significantly to the complexity of sentencing and sentence management.

The Penalties and Sentences Act 1992

The *Penalties and Sentences Act 1992* governs the sentencing process in Queensland Courts. It applies to all sentences imposed in relation to any offences committed against the Criminal Code or other Queensland legislation.

It sets out the general powers of the courts to sentence offenders, the different sentencing options available, and considerations for the court to take into account. The courts must impose a sentence that complies with sentencing options set out in the *Penalties and Sentences Act 1992*.

The Corrective Services Act 2006

The *Corrective Services Act 2006* applies when a person is sentenced to a period of imprisonment. The Corrective Services Act does not provide any law in relation to sentencing options, but among other things prescribes provisions for the:

- custody, admission, and management of prisoners
- administration of custodial facilities
- parole of prisoners.

Division 11 of the Corrective Services Act contains provisions for the discharge or release of prisoners.

Section 108 states that prisoners must be released on their discharge date at a time decided by the chief executive. If the discharge date falls on a weekend or public holiday, the prisoner is to be released on the last day prior to the weekend, or public holiday.

Sections 110 and 111 respectively detail conditions under which the chief executive of Queensland Corrective Services may:

- order that the prisoner be discharged within seven days immediately before the prisoner's discharge day
- grant a prisoner permission to remain in a corrective services facility after the prisoner's discharge day.

In such cases, the early discharge or continued containment of prisoners are not discharge errors and unlawful detentions and therefore are not included in the discharge and detention errors reported in this report.

Guidance

Queensland Corrective Services

Queensland Corrective Services provides training and guidance documents to assist its staff with administering and calculating prison sentences. These include:

- *Corrective Services Manual—Sentence Management Services*, Part 1 and Part 6 (last updated April 2013)
- *Sentencing Principles Training—An introduction to sentencing in Queensland Courts* (last updated April 2015)
- sentence calculation and discharge checklists (last updated May 2014)
- process maps for calculating sentences (first produced 6 July 2016).

Queensland Police Service

The Queensland Police Service does not provide training or guidance specific to the administration of prison sentences because this is not considered a core function of the Queensland Police Service. Instead, it relies on various parts of the Queensland Police Service *Operational Procedures Manual*, particularly sections on:

- operational management—sections 1.17 and 1.18 relating to significant events
- miscellaneous—section 13.5, correctional centres and incidents involving Queensland Corrective Services
- custody.

The custody section of the manual (section 16) details a requirement for the officer in charge of a watch house to develop release procedures (section 16.19.2), and provides some limited guidance to assist watch house staff with performing sentence calculations (section 16.19.5).

Queensland Courts Service

The Queensland Courts Service has a number of procedures manuals, which it relies on to guide its staff and avoid errors. These include its:

- QWIC manual and wizards
- verdict and judgment record and warrant training manual
- court services officers procedures manual.

Previous reviews

During the period we examined, Queensland Corrective Services had undertaken or commissioned reviews of discharge and detention errors. Two of the most significant were in:

- 2009—by the Office of the Chief Inspector
- 2014—by a private firm commissioned by Queensland Corrective Services.

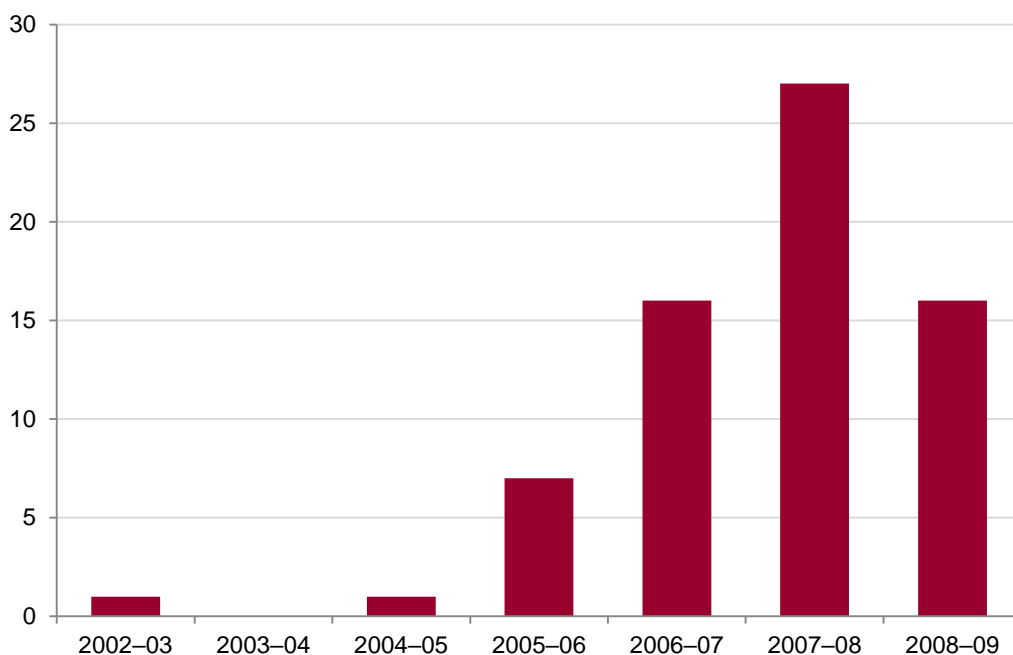
The reviews examined, to varying extents, the effectiveness of Queensland Corrective Services' sentence administration, specifically incidences of prisoners being unlawfully detained and discharged in error. They did not consider:

- the actions Queensland Corrective Services takes in the event of an unlawful detention or a discharge in error, including whether a prisoner is informed of the error and their rights
- the impact of such errors, including financial (the cost to the prison and the cost of ex-gratia payments) and the wellbeing of prisoners
- incidents of unlawful detention and discharge in error that occur when a prisoner is in the custody of the Queensland Police Service.

2009 review

In June 2009, the Queensland Corrective Services Commissioner requested the Office of the Chief Inspector to review sentence calculation practices in Queensland. The commissioner expressed concerns about the marked increase in cases of discharge or detention error that had occurred over the prior three years. Figure 1H shows the increase in discharge and detention errors based on the data provided in the chief inspector's report.

Figure 1H
Discharge and detention error number reported by Office of the Chief Inspector



Note: Queensland Corrective Services introduced its IOMS database in 2005-06 and the *Corrective Service Act 2006* was introduced in 2006-07.

Source: Queensland Audit Office from data provided in the Office of the Chief Inspector report, 'Review of Sentence Calculation', page 5.

The review identified several key deficiencies that increased the risk of discharge and detention errors including:

- lack of uniform business processes and a comprehensive sentence calculation manual
- absence of a formalised training and accreditation program
- difficulties in obtaining necessary court documentation
- competing demands on the sentence administration staff who undertake the calculation
- lack of corporate office sentence calculation support and unclear accountabilities.

The review considered a centralised sentence calculation model (as used in Victoria) but concluded that regional sentence calculation hubs were more suitable.

2014 review

In December 2014, Queensland Corrective Services commissioned a review by a private consulting firm. The review covered the current sentence administration processes and the firm made recommendations for alternative models. The review looked at a total of 68 discharge and detention errors recorded in IOMS between 2011 and 2014. In this period, there were actually 118 discharge and detention errors in total recorded in various Queensland Corrective Services, Queensland Police Service, and Department of Justice and Attorney-General systems.

The review noted a decline in the number of errors but identified issues in parts of the sentence administration process where interfaces existed between agencies. An example was the exchange of information from the parole board to the correctional centre regarding the suspension of an offender's parole.

Proposed independent crime statistics body

In its 2015–16 state budget, the Queensland Government committed to establishing an independent body to publish crime statistics for all criminal offending across Queensland.

In its 2016–17 state budget, the Queensland Government committed a total of \$8.4 million funding over three years to establish the independent crime statistics body.

At the time of this audit, the model for the crime statistics body had not been determined.

2. Sentence administration errors

Chapter in brief

Magistrates and judges impose sentences within the confines of the law. They have to balance specific purposes, such as punishment, protecting the community, deterrence, and rehabilitation. If criminal justice entities fail to administer these sentences as the courts order, they risk undermining the intended purposes of the sentences.

In this chapter, we examine the extent of prisoners released earlier than they were lawfully entitled to be (referred to as discharge in error) and detained beyond what their sentence lawfully allows (referred to as unlawful detention).

Main findings

The criminal justice system discharged in error or unlawfully detained 329 prisoners between 2004–05 and 2015–16. These errors can have significant consequences for the community, the prisoner, and the prisoner's family.

The rate of known errors is increasing and not solely attributable to increased prisoner numbers.

Process and communication issues have consistently been the main contributor to discharge and detention errors, and have increased as a proportion of all errors since 2004–05. This is predominantly a symptom of communication breakdowns and a lack of integration between entities. Data entry and sentence calculation errors are the other types of discharge and detention errors.

Staff with limited training responsible for complex sentence calculations increases the risk of error. The number of calculation errors indicates that the quality assurance checks conducted by Queensland Corrective Services are not sufficiently mitigating this risk.

Audit conclusions

Improvement activities of criminal justice entities have not been effective in reducing sentencing errors, with discharge and detention errors occurring at an increased rate between 2004–05 and 2015–16.

The gaps we identified in communication, data entry, and sentence calculation processes are symptomatic of a system that continues to lack integration and does not support its staff with adequate training, guidance, and integrated information and communications technology systems. The extent and rate of increase in errors points to a breakdown in quality assurance processes aimed at preventing errors from causing incorrect discharges and unlawful detentions.

Introduction

Sentences imposed by magistrates and judges are aimed at achieving specific purposes, such as community protection, punishment, deterrence, and rehabilitation. It is therefore important that criminal justice entities in the public sector administer them correctly.

Criminal justice entities refer to releasing prisoners earlier than their sentence as a *discharge in error* and holding prisoners longer than their sentence as an *unlawful detention*.

Throughout this report, we refer to these collectively as discharge and detention errors.

We expected to find a criminal justice system with effective intra- and inter-entity processes and practices for minimising discharge and detention errors.

This chapter examines:

- the extent of errors being identified by Queensland's criminal justice entities, in terms of frequency and scale—how early people have been mistakenly released or how long they have been unlawfully detained
- the types of errors, and whether Queensland's criminal justice entities have effective prevention and quality assurance processes in place to minimise future errors.

Audit conclusions

Criminal justice entities—Queensland Corrective Services, Queensland Police Services, and the Department of Justice and Attorney-General—have not been effective in addressing process and system weaknesses identified in previous reviews. As a result, discharge and detention errors occurred at an increased rate over the period we examined. Their occurrence and extent demonstrates process and quality assurance practice weaknesses still exist across the criminal justice system.

The system is overly reliant on manual inputs and interfaces, and has been slow to embrace technology to improve integration and information sharing. This not only results in errors but also inefficiencies and double handling of information.

Each error represents a failure of the system to administer sentences of the courts and has the potential to undermine the community protection, punishment, deterrence, and rehabilitation aims of the sentences.

Discharge and detention errors

Between 2004–05 and 2015–16, the criminal justice system discharged in error or unlawfully detained 329 prisoners. We have collated these recorded errors from across the criminal justice system. The criminal justice entities do not collate these errors or manage them in an integrated or coordinated manner, either within the individual entities or across the three entities.

The known errors in administering prisoner sentences have occurred at an increasing rate over the 12-year period we examined. There may be others that have not been detected by the system, other than when the prisoner committed further offences.

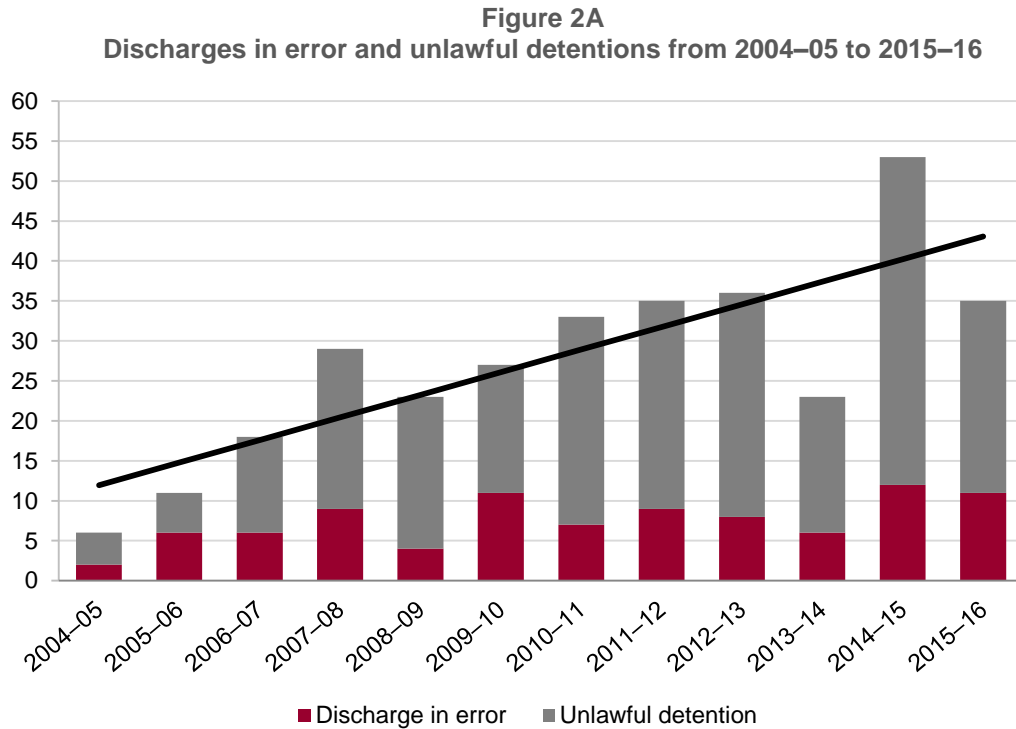
Because Queensland Corrective Services is primarily responsible for incarcerating prisoners, it has a greater role in identifying and recording errors; but all three entities have a role to play and have contributed to errors during this period.

Queensland Corrective Services attributed some of the errors it identified to the Queensland Police Service and court administration. Some of these include offenders and prisoners being discharged in error from, or unlawfully detained in, police watch houses. The Queensland Police Service does not centrally record its discharge errors and unlawful detentions at a statewide, local, or watch-house level; instead, its records are dispersed across multiple sources. The number of Queensland Police Service errors may be greater than the number we have collated.

Number of sentencing administration errors

Of the 329 discharge and detention errors we collated occurring between 2004–05 and 2015–16, there were more people unlawfully detained than released in error—there were 91 cases of people discharged in error and 238 people unlawfully detained.

Figure 2A shows the annual discharge and detention errors over the past 12 years.



Source: Queensland Audit Office using data from the Integrated Offender Management System (IOMS), Sentence Management Services Current Incident Database, Queensland Corrective Services briefing notes, The Queensland Police Service Ethical Standards Command complaints database, Queensland Police Records Information Management Exchange (QPRIME), Department of Justice and Attorney-General Legal Advice and Advocacy ex-gratia payments, and Department of Justice and Attorney-General Reform and Support Services unlawful imprisonments data.

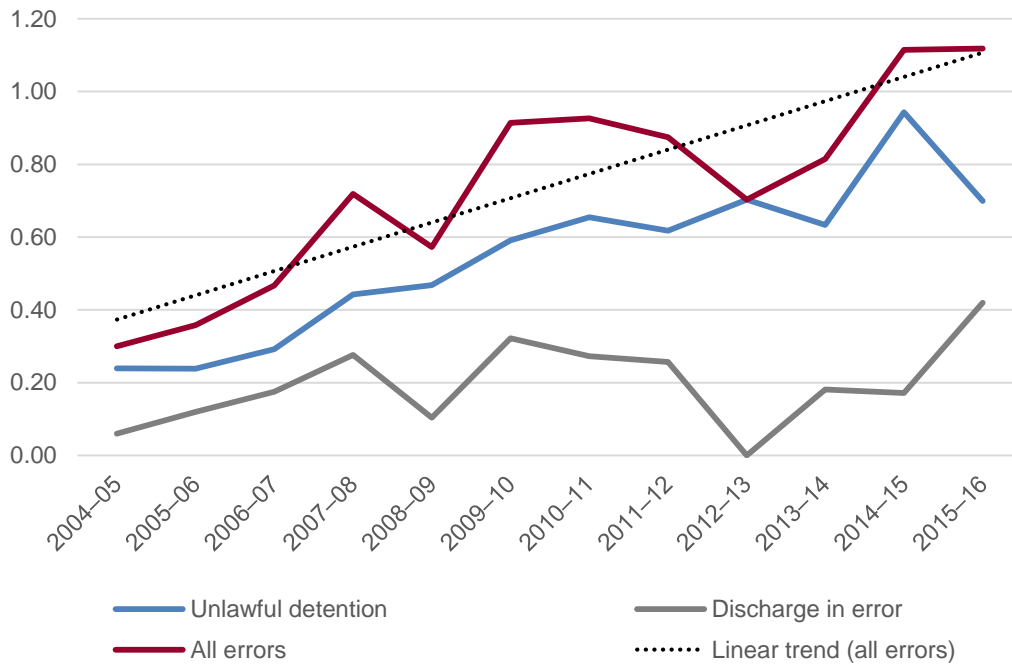
Over this 12-year period, the number of errors fluctuated from year to year, but the overall trend shows an increase. Unlawful detentions consistently outnumbered discharges in error and represent 72 per cent of all errors. This suggests a systemic tendency towards keeping prisoners in custody longer rather than releasing them early.

Error rates

The total number of discharge and detention errors is increasing at a greater rate than the prison population. This indicates that the increased number of errors is not solely attributable to prisoner numbers.

Figure 2B shows the number of errors per 1 000 prisoners Queensland Corrective Services managed for each year between financial years 2004–05 to 2015–16. It shows that between 2004–05 and 2015–16, the trend in discharge and detention errors more than doubled, and the increase was due to the increasing rate of unlawful detentions.

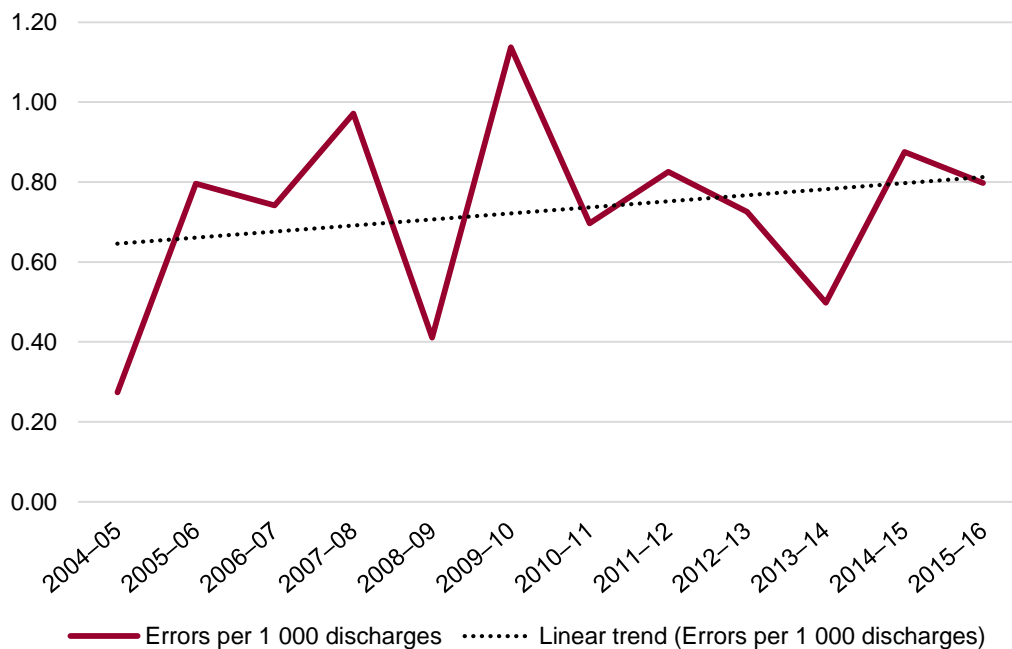
Figure 2B
Errors per 1 000 prisoners managed



Source: Queensland Audit Office.

Figure 2C shows the rate of discharges in error per 1 000 discharges between financial years 2004–05 to 2015–16.

Figure 2C
Discharge errors per 1 000 discharges



Source: Queensland Audit Office.

The rate of errors per 1 000 prisoners managed (Figure 2B) and the rate of discharge errors per 1 000 prisoners discharged (Figure 2C) are both showing upward trends.

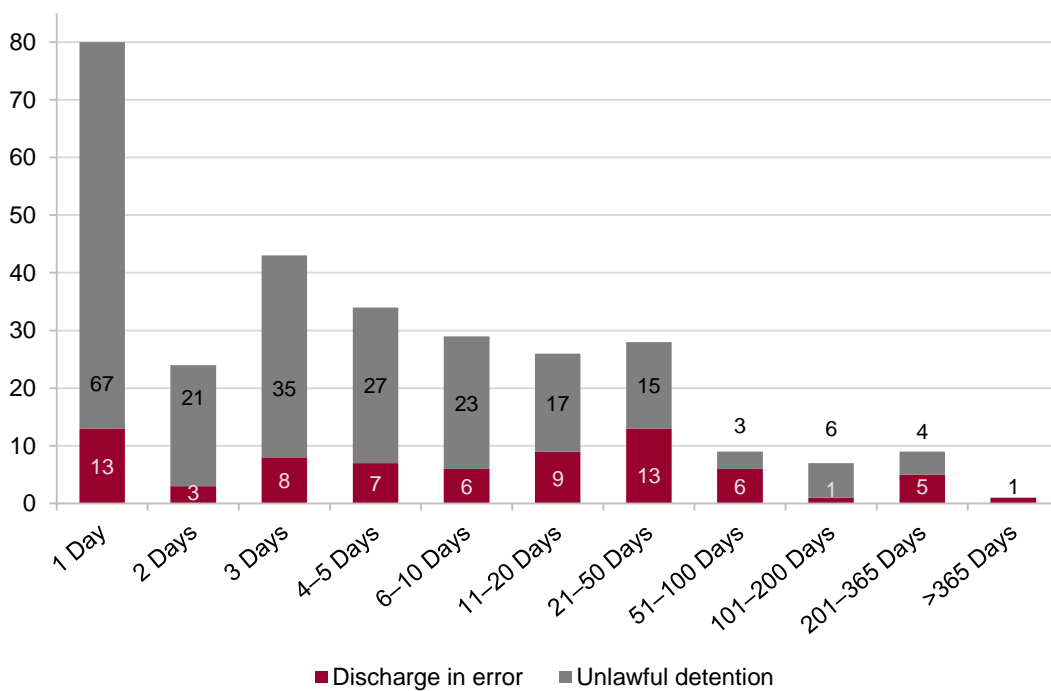
Number of days in error

The scale (number of days in error) and potential consequences can be significant for the individual, their family, and the community.

The recording of information related to offenders and prisoners discharged in error is variable and in some cases poor. As a result, of the 329 discharge and detention errors that occurred between 2004–05 and 2015–16, there was insufficient information to readily determine the size of the error (number of days) in 39 cases (11.9 per cent). The limited and disparate Queensland Police Service and court recording of discharge and detention error information further reduces the understanding of the extent of errors.

Figure 2D shows the number of days for the remaining 290 occurrences where prisoners were unlawfully detained or discharged in error from 2004–05 to 2015–16.

Figure 2D
Number of days in error from 2004–05 to 2015–16

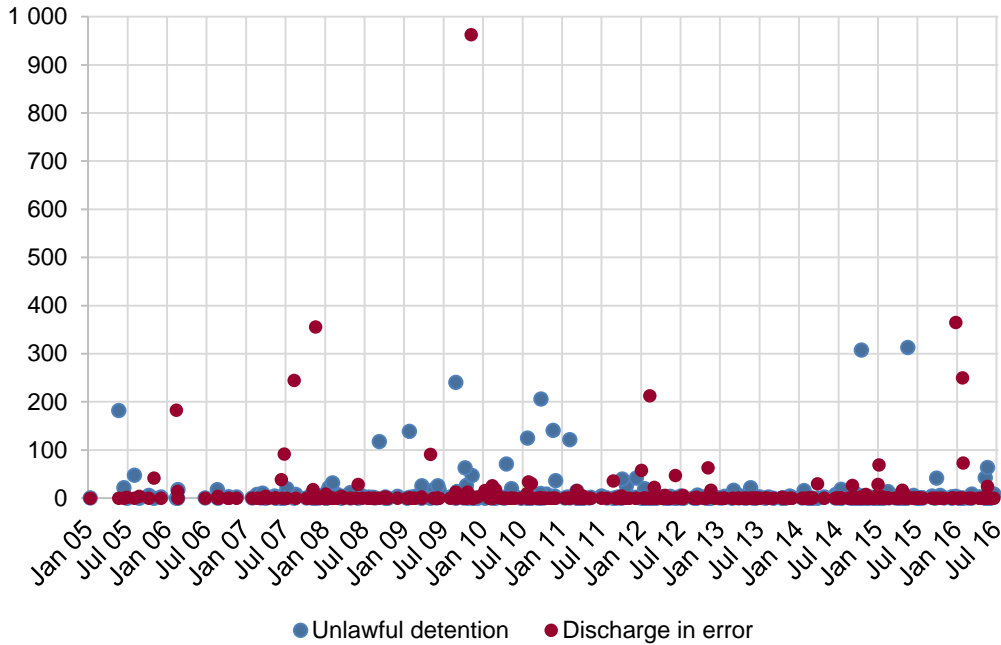


Note: There are an additional 39 cases where we could not determine the exact number of days the prisoner was unlawfully detained or discharged in error. We have not included these 39 cases in the above figure. They consist of 20 unlawful detentions and 19 discharges in error.

Source: Queensland Audit Office using data from the Integrated Offender Management System (IOMS), Sentence Management Services Current Incident Database, Queensland Corrective Services briefing notes, Department of Justice and Attorney-General Legal Advice and Advocacy ex-gratia payments, and Department of Justice and Attorney-General Reform and Support Services unlawful imprisonments data.

Figure 2E shows the number of days in error from January 2005 to July 2016. There were no errors greater than 100 days between July 2012 and July 2014, but since then, there have been four errors of 250 days or more.

Figure 2E
Days in error over time (2005–16)



Notes: Figure 2E excludes the 39 cases where we could not determine the exact number of days the prisoner was unlawfully detained or discharged in error.

Source: Queensland Audit Office using data from Queensland Corrective Services' Integrated Offender Management System (IOMS), Sentence Management Services Current Incident Database, and Queensland Corrective Services briefing notes.

How long prisoners were unlawfully detained

For the 218 unlawful detention errors between 2004–05 and 2015–16, as shown in Figure 2D, the criminal justice system unlawfully detained prisoners for 15 days on average. This ranged from 1 day to 313 days. Of these prisoners, 21 per cent were detained unlawfully for 11 days or more.

How early prisoners were released

For the 72 discharged in error between 2004–05 and 2015–16, as shown in Figure 2D, the criminal justice system released 49 per cent of the prisoners 11 or more days earlier than they should have.

Prisoners discharged in error during this period were on average released 51 days earlier than they should have been. This ranged from one day to 963 days, although this does not mean that in all cases the prisoner actually spent that amount of time in the community. In some cases, the prisoner was subsequently returned to custody by warrant or because they were arrested committing further crimes. For example, a prisoner discharged in error 963 days early spent only 35 days at large, because the Queensland Police Service executed a warrant and returned the prisoner to custody.

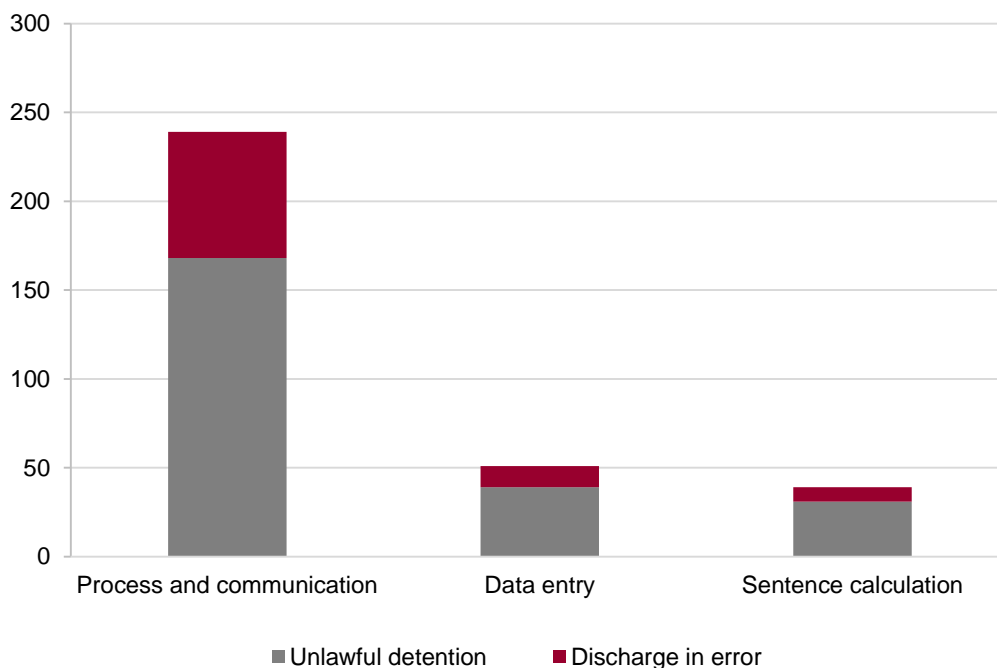
Types of errors

A number of factors can contribute to prisoners being unlawfully detained or discharged in error. We categorised these discharge and detention errors into three common error types:

- process and communication—the process in administering a prisoner's sentence has failed or resulted in a delay (for example, the Queensland Police Service has emailed a verdict and judgment record to a correctional centre but Queensland Corrective Services staff have overlooked it). This mainly includes breakdowns in communication between criminal justice entities responsible for administering a prisoner's sentence (for example, the parole board makes a decision to suspend a prisoner's parole and does not communicate it to the correctional centre or Queensland Police Service watch house)
- data entry—a prisoner's sentence, court result, or discharge date has been incorrectly recorded in criminal justice databases (for example, a court clerk has incorrectly recorded the court order into the Queensland Wide Interlinked Courts (QWIC) system)
- sentence calculation—a prisoner's sentence has been incorrectly calculated (for example, a Sentence Management Unit staff member has incorrectly calculated a prisoner's sentence).

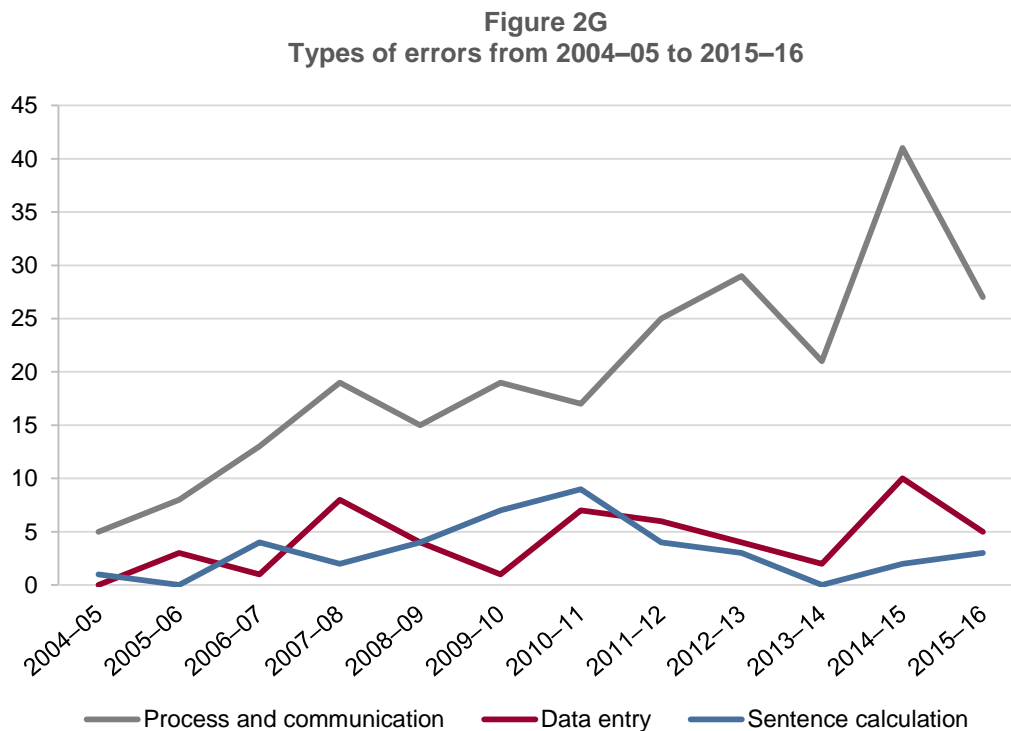
Figure 2F displays the number of unlawful detentions and discharges in error across the three error types.

Figure 2F
Types of errors from 2004–05 to 2015–16



Source: Queensland Audit Office using data from the Integrated Offender Management System (IOMS), Sentence Management Services Current Incident Database, Queensland Corrective Services briefing notes, the Queensland Police Service Ethical Standards Command complaints database, Queensland Police Records Information Management Exchange (QPRIME), Department of Justice and Attorney-General Legal Advice and Advocacy ex-gratia payments, and Department of Justice and Attorney-General Reform and Support Services unlawful imprisonments.

Figure 2G displays the types of errors from 2004–05 to 2015–16.



Source: Queensland Audit Office using data from the Integrated Offender Management System (IOMS), Sentence Management Services Current Incident Database, Queensland Corrective Services briefing notes, the Queensland Police Service Ethical Standards Command complaints database, Queensland Police Records Information Management Exchange (QPRIME), Department of Justice and Attorney-General Legal Advice and Advocacy ex-gratia payments, and Department of Justice and Attorney-General Reform and Support Services unlawful imprisonments data.

Figures 2F and 2G show that process and communication issues have consistently accounted for most of the discharge and detention errors, and have increased as a proportion of total errors.

Process and communication

Process and communication failures accounted for 73 per cent (239) of errors within the correctional centre or between either the court, the parole board, or the police watch house.

The process and communication errors relate to failures in sending, receiving, or actioning of verdict and judgment records and court or parole orders. There were six errors relating to the wrong prisoner being discharged from Queensland Police Service watch houses. This is despite section 16.19.2 of the Queensland Police Service *Operational Procedures Manual* requiring the officer in charge of police watch houses to develop procedures to ensure the correct prisoner is released.

Queensland Corrective Services detained 21 prisoners unlawfully because correctional staff did not check and action correspondence sent to the centre by fax or email. In one instance, Queensland Corrective Services detained a prisoner unlawfully for 20 days because the correctional staff overlooked email correspondence from the probation and parole office.

Increasing and changing demands on courts has led to the need for the courts to be more flexible in their operating hours. The Queensland Police Service and Queensland Corrective Services have been slow in adjusting their processes to accommodate the need for courts to operate outside standard business hours. This contributes to the justice system detaining prisoners unlawfully. Courts are sending verdict and judgment records to correctional centres outside of business hours and Queensland Corrective Services is not actioning them until the following day or, in some instances, after the weekend. The Department of Justice and Attorney-General has a long standing practice of providing Queensland Corrective Services with a process and contact numbers for Queensland Corrective Services staff to contact all registries, registrars and, after hours, regional directors.

Recently, Queensland Corrective Services started rostering staff on later shifts to accommodate the range of court operating hours.

Communication

Communication breakdown between the correctional centre, the court, the parole board, or the police watch house accounted for 44 per cent (105) of the 239 process errors. Examples of communication breakdown include:

- correctional centre staff being unable to contact court staff to clarify court orders
- a magistrate's decision to recall a warrant not being communicated to the Queensland Police Service
- parole board decisions to lift a prisoner's parole suspension not being effectively communicated to correctional centres or police watch houses.

In 2009, the Department of Justice and Attorney-General implemented the electronic transfer of court results function, which it uses to provide an electronic version of the court results to the Queensland Police Service and is intended to reduce the risk of communication breakdown. It is in the process of expanding the electronic transfer of court results to include Queensland Corrective Services.

The courts also provide Queensland Corrective Services sentence management staff with access to the Queensland Wide Interlinked Courts (QWIC) system to view and, in some cases, print verdict and judgment records.

These change initiatives are intended to improve the transfer of verdict and judgment records between the courts, the Queensland Police Service and Queensland Corrective Services. To minimise the potential for discharge and detention errors they rely on accurate and timely:

- data entry by court staff
- action of court decisions by Queensland Police Service and Queensland Corrective Services staff.

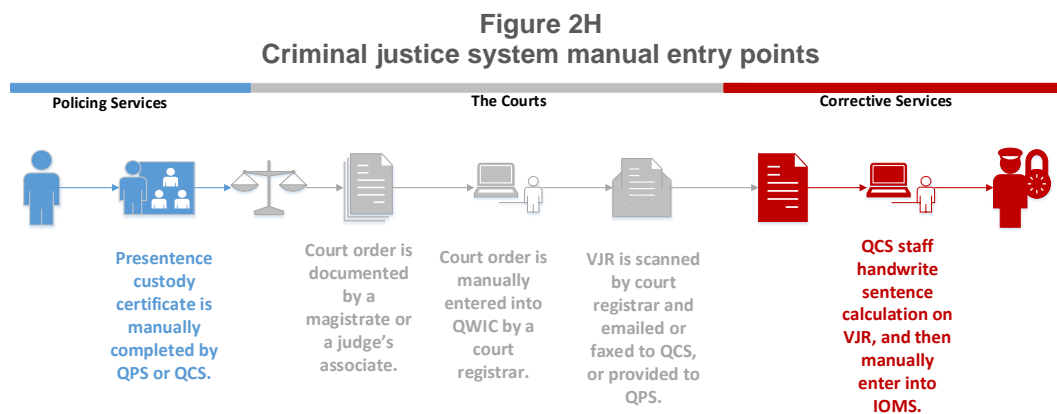
However, these will not address all of the process and communication risks. One example is transferring prisoners from Queensland Corrective Services to Queensland Police Service custody. This usually occurs when a prisoner is transferred from prison to a Queensland Police Service watch house to attend a court hearing. This increases the risk of communication and process errors because of the number of people involved, and the reliance on manual processes and lack of system integration. Greater use of existing technology, where possible, to enable prisoners to appear in court remotely (such as by video link) could reduce the need to transfer the prisoner from the custody of one entity to another and back again. This would eliminate the need to communicate sentence information in a timely and correct manner between the entities and the associated risk of mistakes. Greater use of such technology might also achieve other cost and resource efficiencies.

Data entry

Data entry error was responsible for 15 per cent (51) of all errors. They include staff incorrectly recording the discharge date, the result from the verdict and judgment record, or the parole order.

Manual data entry

Limited interface between the Queensland Police Service, court, and Queensland Corrective Services databases, Queensland Police Records Information Management Exchange (QPRIME), Queensland Wide Interlinked Courts system (QWIC), and Integrated Offender Management system (IOMS) results in multiple manual points of entry in the sentence administration process. Having multiple manual entry points is inefficient, duplicates efforts, and increases the risk of an error occurring. Figure 2H shows the manual points of input across the sentence administration process.



Note: QPRIME—Queensland Police Records Information Management Exchange, QWIC—Queensland Wide Interlinked Courts system, IOMS—Integrated Offender Management system.

Source: Queensland Audit Office.

Verdict and judgment record inaccuracies

Unlike some jurisdictions, such as Western Australia and the Federal Court of Australia, magistrates and judges in Queensland do not directly enter the sentences or decisions they hand down into the courts' QWIC database. Court staff receive handwritten or typed sentences from the magistrates and judges, enter them into QWIC, and produce a verdict and judgment record.

The verdict and judgment record contains the name of the person sentenced or otherwise dealt with by the court. It is a document containing a summary of the charges and applications heard at a particular court event. Verdict and judgment records record the outcome and any order made by the court.

The main types of orders contained in a verdict and judgment record are:

- remand in custody
- imprisonment
- suspended imprisonment
- committal
- application to transmit summary offence to the Supreme or District Courts.

Court staff also forward the verdict and judgment record to Queensland Police Service watch house staff as an authority to justify the remand or release of prisoners. In addition, they forward the verdict and judgment record to the Queensland Police Service who are responsible for creating and maintaining criminal histories.

The production and issuing of verdict and judgment records and the receipting and transmission of the verdict and judgment records from the courts to Queensland Corrective Services or the Queensland Police Service are core to the sentence calculation process. In addition, to potentially contributing to discharge and detention errors, incorrect verdict and judgment records could also affect the accuracy of criminal histories (a person's criminal record).

The verdict and judgment record errors consisted of receipting and transmission issues and incorrect recording of information (such as incorrect sentence details).

Sentence calculation

Incorrectly calculating sentences accounted for 12 per cent (39) of the discharge and detention errors. Queensland Corrective Services' role is to enforce the sentences imposed by a court by calculating the prisoner's sentence from the verdict and judgment record provided by the courts.

If Sentence Management Services staff are unclear about the contents or accuracy of the verdict and judgment record, they often seek clarification from the courts.

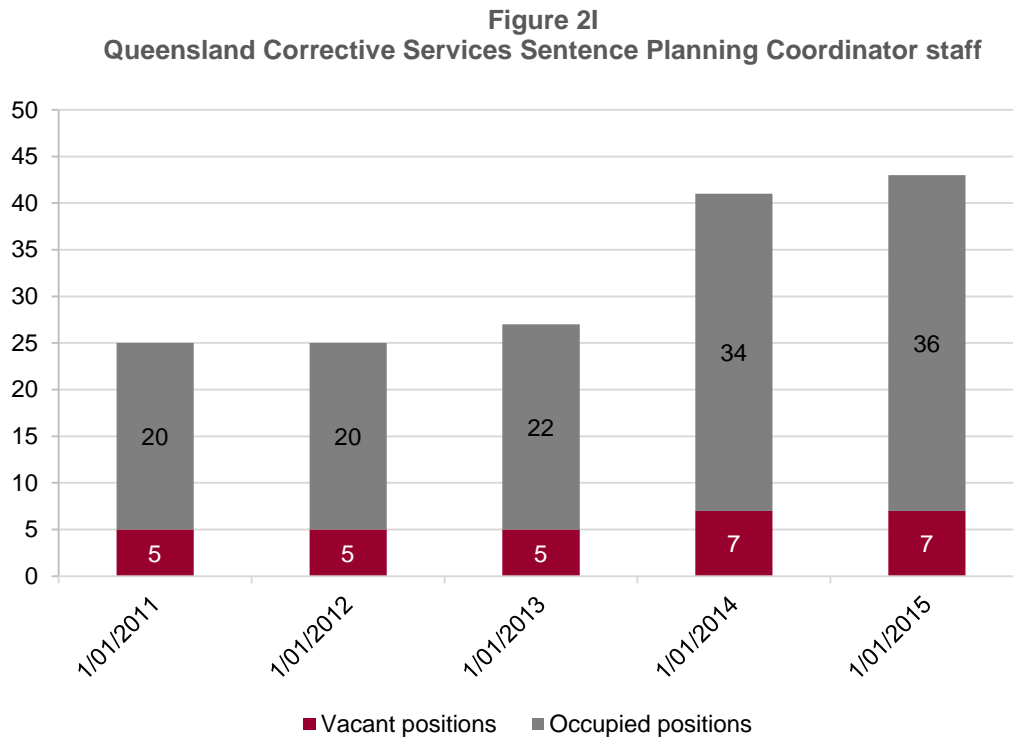
We assessed Queensland Corrective Services staff involved in sentence calculation and found:

- limited training—Queensland Corrective Services provides initial training to staff only by a training manual, which they are expected to work through by themselves. There is no training program in place for them or competency assessment to determine proficiency
- inconsistent quality assurance—Queensland Corrective Services staff inconsistently applied quality assurance practices.

Queensland Corrective Services sentence administration staff numbers

Between November 2011 and December 2015, Queensland Corrective Services has increased its number of Sentence Management Unit staff. However, Queensland Corrective Services has consistently had a number of vacant positions, including in regional correctional centres, over the same period.

Figure 21 displays Queensland Corrective Services' number of vacancies against the full-time equivalent (FTE) positions of Sentence Planning Adviser staff responsible for sentence calculation.



Note: This is point-in-time data, and the vacant positions demonstrate the number of unfilled positions over the period. Other Sentence Management Unit staff do play a role in the sentence calculation process, although, these staff are responsible for sentence calculation.

Source: Queensland Audit Office from Queensland Corrective Services data.

This increase in sentence administration staff has resulted in a reduction in the ratio of prisoners managed to staff from over 700 prisoners per staff member in 2011 to around 500 prisoners per staff member in 2015. Based on sentence calculation data recorded in IOMS, sentence administration staff are performing more sentence calculations per year—478 per staff member in 2011–12 compared to 534 in 2015–16.

In addition to sentence calculations, staff have roles in:

- managing processes to ensure the lawful detention of prisoners
- coordinating prisoner parole functions
- facilitating and undertaking actions that support prisoner assessment, planning, and placement.
- supervising and coordinating staff in the delivery of sentence management activities.

Queensland Corrective Services staff we interviewed identified high levels of workload and increased complexity of sentences as an issue.

This suggests workload may be a factor increasing the risk of errors.

Presentence custody certificates

Section 159A of the *Penalties and Sentences Act 1992* dictates that, unless the sentencing court directs otherwise, time held in presentence custody is to be deducted from a prisoner's sentence. Errors in calculating presentence custody can contribute to discharge and detention errors.

While an error in a presentence custody certificate may mean that a verdict and judgment record is amended, it often does not have this result. When the verdict and judgment record is amended, any action taken by Queensland Corrective Services or the Queensland Police Service in compliance with the original verdict and judgment record before the amendment is lawful, despite the amendment. This is because they are complying with an order of the court.

Completion, quality assurance, transmission, and recording of presentence custody certificates is variable, not only across the three entities but also within each entity.

Legal practitioners and prosecutors we spoke with said that presentence custody certificates are often late and inaccurate. They advised that errors, where identified, are often addressed at the time of sentencing and not recorded. Others require an application under section 188 of the *Penalties and Sentences Act 1992* to reopen a court case so that the sentence can be amended. We examined 4 986 section 188 applications from 1 January 2005 to 31 July 2016. Adopting a conservative approach (due to the limited information recorded in QWIC), we found 187 cases were reopened due to an issue with the presentence custody certificate.

Despite this, practitioners and prosecutors advised that the introduction of presentence custody certificates is a considerable improvement over the previous practice of courts trying to calculate presentence time with limited information.

Queensland Corrective Services staff at correctional centres are responsible for the completion of the majority of presentence custody certificates. Staff use information contained in the IOMS database to do this. Because they do not have direct and timely access to the Queensland Police Service QPRIME database, they contact individual police officers to obtain any Queensland Police Service information needed for the certificate.

Queensland Corrective Services' method of transmitting presentence custody certificates varies across correctional centres, including being:

- handed up in court
- sent to the registry, with at least one correctional centre still relying on fax
- sent directly to the judges' chambers.

The presentence custody certificate is added to the relevant individual court file. Queensland Corrective Services has a quality assurance process in place that requires senior staff to check completeness and accuracy and countersign the presentence custody certificate. Queensland Corrective Services does not audit the presentence custody certificates.

In some cases, Queensland Police Service staff also complete presentence custody certificates, specifically in relation to short-term remand prisoners. They look up in QPRIME the date the prisoner was taken into custody. They include this in the presentence custody certificate and use it to calculate presentence custody time.

Queensland Police Service staff throughout the state prepare presentence custody certificates when requested by the prosecuting authority, such as the Office of the Director of Public Prosecutions. Queensland Police Service staff use information from custody records maintained on the QPRIME database to prepare the certificates. The staff member preparing the certificate signs it as being correct. The Queensland Police Service has no quality assurance processes, such as supervisor checks and certification, to ensure the correctness of the information or accuracy of calculations that make up the presentence custody certificates.

When the Queensland Police Service prepares presentence custody certificates, Queensland Corrective Services sentence management staff use them to assist in overall sentence calculation. Queensland Corrective Services staff accept on face value the presentence custody certificates prepared by the Queensland Police Service, because they have limited ability to verify the information through their lack of access to QPRIME. In instances where something stands out as being obviously wrong or unusual, they might contact the Queensland Police Service to clarify.

The poor recording, quality assurance, and audit processes across the three entities for presentence custody certificates means they have little understanding or assurance of their accuracy.

Quality assurance processes

The Queensland Police Service and the Queensland Courts Service have limited quality assurance processes to prevent errors. For example, a court officer enters court orders into QWIC and this is supposed to be verified by a second officer. This process does not catch all errors and as a result, the Department of Justice and Attorney-General recently started considering an alternate system of verification. The proposed process includes a registrar checking the court file and signing the verdict and judgment record rather than relying on a court clerk.

Queensland Corrective Services has a number of quality assurance processes in place, but these are not always followed and are not always effective.

Because of the limited court quality assurance processes and the occurrence of errors, Queensland Corrective Services now obtains copies of sentencing transcripts from District and Supreme Court matters. Queensland Corrective Services staff compare the verdict and judgment record to the transcript to check for accuracy. If they suspect a discrepancy between the verdict and judgment record and transcript, they raise the issue with the court and continue to abide by the verdict and judgment record unless the court orders otherwise. The process of checking the verdict and judgment record against court transcripts is not timely and ties up considerable Queensland Corrective Services staff time.

Queensland Corrective Services does not obtain Magistrates Court sentencing transcripts because, unlike District and Supreme Court transcripts, it is required to pay for them under the Department of Justice and Attorney-General's contracted outsourced arrangements. This means that the Queensland Corrective Services mitigation process excludes the majority of sentences—those from the Magistrates Courts.

Adequate quality assurance processes are likely to detect issues earlier and would enable the courts to more effectively and efficiently correct errors and prevent errors.

3. Managing and reporting sentencing errors

Chapter in brief

The criminal justice system has processes and quality assurance procedures in place to prevent errors. However, errors are still occurring. Because of the potential consequences for the community, individual prisoners, and their families when these errors do occur, they must be addressed in a manner that minimises the consequences and prevents future occurrences.

In this chapter, we examine the efficiency and effectiveness of the criminal justice system in identifying, recording, reporting, and addressing discharge and detention errors.

Main findings

Because of discharge and detention errors, not all prisoners serve their full sentence. Some prisoners are returned to custody because they reoffend while unlawfully at large, while for others the prisoner's parole period or sentence expires prior to the error being identified.

Entities do not generally inform unlawfully detained prisoners of the error and of their rights to complain or seek compensation. This may cause the number of complaints and compensation claims to be lower than they otherwise would.

Information on discharge and detention errors is incomplete or difficult to obtain and dispersed across the criminal justice entities. Queensland Corrective Services has extensive internal reporting processes, but it has changed its processes over time and they are not consistently applied.

The Queensland Police Service and the Department of Justice and Attorney-General, who administer the courts, have reporting processes of variable quality. As a result, the entities lack knowledge as to the extent and nature of errors, with specific information not recorded, and no central source for collating, analysing, and disseminating information.

Queensland Corrective Services conducts briefings and, in some cases, detailed inquiries into the errors it attributes to itself. The Queensland Police Service and the courts have less robust reporting and investigation processes for errors attributed to them.

Audit conclusions

Criminal justice entities are not effective in identifying, recording, reporting, and addressing discharge and detention errors. This is because they treat errors as individual agency responsibilities rather than as a criminal justice system issue, and each entity has different levels of rigour in managing and reporting errors.

Because of these errors, some prisoners do not serve their full sentence. More commonly, others continue to be a cost and risk to the system beyond the expiry of their sentence.

Introduction

Despite the criminal justice system's efforts to prevent errors, in a complex and largely manual system, they occur.

When errors occur, responsible parties need to report and manage them appropriately. This is particularly important because those charged with governance can only act to mitigate the risk of errors if they are aware of them.

We expected to find a criminal justice system with effective intra- and inter-entity processes and practices for redressing and managing discharge and detention errors. Specifically, we looked for:

- coordination and cooperation occurring between criminal justice entities to effectively manage discharge and detention errors, investigate them, and address their root causes
- adequate documentation and appropriate reporting of all occurrences or suspected occurrences.

Audit conclusions

Despite efforts to improve processes and system weaknesses, criminal justice entities are not managing discharge and detention errors in a transparent, accountable, consistent, and collaborative manner.

The three entities are failing to inform those affected of the sentencing error about their rights. Because of poor record keeping, reporting, and siloed approaches, those charged with governance of criminal justice entities are not fully aware of the extent of the errors occurring. As a result, they are poorly informed when it comes to addressing the root causes of these errors in a coordinated and systematic way.

These errors mean that some prisoners discharged in error are not serving their full sentence. Others, detained unlawfully, place unnecessary cost, pressure, and risk on the corrections system.

Redressing and managing sentencing errors

The criminal justice system is not responding appropriately to discharge and detention errors. Procedures to manage and redress errors, when they occur, are inadequate and staff are not always following them. When errors are made, they are not appropriately redressed. Redressing and managing discharge and detention errors quickly and transparently when they occur is important to:

- maintain community confidence in the justice system
- minimise any potential risk to community safety
- limit and redress any impact on affected prisoners and their family.

Redressing errors

Informing prisoners

Approximately three quarters of all errors resulted in Queensland Corrective Services holding prisoners in prisons longer than they should.

When the criminal justice system unlawfully detains people, it deprives them of their liberty. These people have a right to be informed of the error and advised of their rights. This advice should include information on complaint and compensation processes if applicable.

Neither Queensland Corrective Services nor the Queensland Police Service has a formal policy to outline what information prisoners unlawfully detained or discharged in error are to receive. As such, staff have no formal guidance on:

- informing prisoners of the error
- what prisoners should be told
- who is responsible for telling them
- when prisoners should be told
- how staff are to document the information provided to prisoners.

Queensland Corrective Services advised us that it requires its sentence management staff to advise the prisoner as soon as they identify the error and record a note in its Integrated Offender Management System (IOMS). However, it did not effectively communicate its expectation and, as a result, this practice has not been occurring. Queensland Corrective Services did not pick up this failure because it was not auditing records to check that staff were informing prisoners of their unlawful detention or discharge in error.

Queensland Corrective Services does not inform prisoners detained unlawfully of their right to make a complaint or seek compensation unless the prisoner specifically asks. If a prisoner enquires about compensation, Queensland Corrective Services advises them to seek legal advice.

Because the Queensland Police Service is not recording most cases of its discharge and detention errors, there are no records of whether it informed offenders and prisoners that they were unlawfully detained. We reviewed the Queensland Police Service individual custody documentation for 31 offenders discharged in error. None of the custody records documented the prisoner being informed of the error.

Unlawfully detaining prisoners also continues to expose the prisoner to the risks within the prison system. Case study 1 provides an example of a prisoner injured while being unlawfully detained.

Case study 1

Unlawfully detained

In December 2015, the District Court handed down an appeal decision in relation to a sentence imposed in September 2015. As a result, the prisoner was re-sentenced to a nine-month wholly suspended sentence, which meant the prisoner was eligible for immediate release.

The District Court emailed the verdict and judgment record on the same day as the hearing (Friday) to the generic email address at the correctional centre where the prisoner had been held in remand. The correctional centre staff did not action the emailed verdict and judgment record until the following Monday, resulting in the prisoner being unlawfully detained for three days.

The prisoner sustained facial injuries, allegedly caused by another prisoner, during the three days of unlawful detainment.

Cost of unlawful detentions

Discharge and detention errors result in additional costs to the state. Because these costs are not captured systematically, none of the three entities knows how much this costs the state. This includes costs associated with:

- housing prisoners in correctional centres longer than they should (unlawful detentions)
- locating offenders discharged in error and returning them to custody
- compensation and associated legal costs in relation to offenders unlawfully detained.

Because limited resource and time information is captured around efforts to locate prisoners discharged in error, criminal justice entities are unable to estimate the total costs of sentencing errors. Similarly, as the time at large data is not detailed for many of these prisoners, criminal justice entities are unable to calculate any costs avoided by not having to accommodate them while they were at large.

Complaints and compensation

Depending on the circumstances and nature of the error, prisoners unlawfully detained may lodge a complaint with either Queensland Corrective Services or the Queensland Ombudsman. They may also seek compensation.

Between 1 July 2004 and 30 June 2016, 170 complaints about sentence calculation were lodged with the Queensland Ombudsman.

The known compensation and legal costs associated with unlawful detentions is small. We identified \$46 750 that had been paid to prisoners who had been unlawfully detained during the 12 years from 2004–05 and 2015–16, and \$110 226 in legal costs. The Department of Justice and Attorney-General has offered an additional \$105 000 to claimants, however these compensation offers have yet to be accepted. Because no one centrally records these costs and they are not easily identifiable, we cannot be confident that this represents the total payments for errors during this period.

In addition, there is no way of capturing the Queensland Corrective Services, Queensland Police Service, and court costs associated with trying to locate prisoners discharged in error and bringing them back to custody.

The low number of complaints and compensation may be due to the failure of Queensland Corrective Services to notify prisoners of errors and of their rights.

Managing errors

Assessing risk

Criminal justice entities do not routinely or systematically document their assessment of potential risk to the community or individuals when a prisoner is discharged in error.

A risk assessment for discharge and detention errors is necessary to ensure the appropriate efforts are made to mitigate any significant risks. It is particularly important that the criminal justice entities assess and document appropriately the risk to the community and individuals. For example, assessing the implications of releasing prisoners with domestic violence histories in error.

The priority for returning prisoners back to custody should be informed by a comprehensive risk assessment using information from all relevant criminal justice entities—the greater the risk to the community or an individual, the higher the priority and effort should be.

We saw, in one case, an email documenting a senior Department of Justice and Attorney-General executive questioning Queensland Corrective Services about whether a prisoner discharged in error posed a risk to the community. Because Queensland Corrective Services had not done a risk assessment and did not have access to the prisoner's criminal history, they were unable to provide a timely answer. This is because Queensland Corrective Services does not have direct access to the Queensland Police Service Queensland Police Records Information Management Exchange (QPRIME) system to make an informed assessment.

Returning prisoners to custody

Ninety-one of the 329 discharge and detention errors resulted in prisoners being released earlier than they should have been.

Some prisoners discharged in error avoid serving the remainder of their sentences. This is in part due to Queensland Corrective Services' assessment that under legislation it does not have the lawful authority to return to custody prisoners discharged in error if the prisoner's parole period or sentence expires prior to the:

- error being identified
- prisoner being located.

Section 112 of the *Corrective Services Act 2006* defines a prisoner who is 'mistakenly discharged before the prisoner's discharge day' as being unlawfully at large. The section permits a Queensland Corrective Services officer to either:

- arrest a prisoner unlawfully at large without warrant
- apply for a warrant to arrest the prisoner unlawfully at large.

Queensland Corrective Services records about warrants to return offenders to custody are poor because they are incomplete and often lack sufficient detail to determine the outcome. As a result, the records provide little assurance over the number of warrants issued to return prisoners to custody.

Queensland Corrective Services provided warrant documentation for 46 of the 91 prisoners discharged in error between 2004–05 and 2015–16. Twenty-seven of the 46 prisoners were returned to custody either by warrant, the prisoner voluntarily handed themselves in, or was arrested for committing further offences. In other cases, prisoners were never returned to custody for various reasons, including because their parole period or sentence expired before the error was detected or before they could be located.

Of the 46 errors:

- twenty-two warrants were issued. Two of these warrants were recalled and three were withdrawn. Queensland Corrective Services could only provide copies of the two warrants recalled. Records do not detail reasons why one of the two warrants were recalled and one of the three warrants were withdrawn.
- in 13 cases Queensland Corrective Services did not have warrants issued because the prisoner's parole order expired, bail was granted, or the prisoner had handed himself/herself in
- the information in the remaining 11 cases was inadequate for Queensland Corrective Services to determine whether a warrant was issued.

Queensland Corrective Services could only provide copies for 13 of the 22 warrants it had recorded as issued, only six of which had been executed.

We identified at least four cases of prisoners discharged in error who went on to commit further offences during the period they were erroneously at large in the community. Case study 2 provides an example and demonstrates why these errors can erode the community's confidence in the criminal justice system.

Case study 2

Discharge in error—reoffending

In 2013, the Magistrates Court sentenced a prisoner convicted of serious assault matters to three years imprisonment, eligible for parole after one year. Queensland Corrective Services incorrectly calculated the sentence to be two years rather than the three years the court ordered.

As a result, Queensland Corrective Services mistakenly released the prisoner 365 days earlier than the prisoner's sentence allowed. Its quality assurance processes failed to detect the error.

The Queensland Police Service arrested the prisoner 18 days after incorrect early release with a charge of breaching a domestic violence protection order.

It was not until the prisoner appeared in court that the magistrate identified the error and notified Queensland Corrective Services and the Queensland Police Service. The prisoner was convicted.

Applying time at large

Under Section 112 of the *Corrective Services Act 2006*, any time a prisoner spends at large, for example due to escape or a discharge error, is not to be counted as time served against the prisoners sentence. Accordingly, Queensland Corrective Services staff are required to adjust the prisoner's sentence dates to account for any time when they were not serving their sentence.

In practice, Queensland Corrective Services assesses time at large on a case-by-case basis, depending on the circumstances. Sentence management staff in the correctional centres, in consultation with a senior advisor from the Sentence Administration Unit, determine whether they adjust the sentence dates for time at large. This practice is based on legal advice Queensland Corrective Services obtained some years ago in relation to a specific incident. Queensland Corrective Services reinforced this practice to staff in a recent sentence administration newsletter circulated to all correctional centres across the state.

The current practice leaves the treatment of time at large open to interpretation and inconsistent decisions.

Not being returned to custody or having discharge dates amended for time at large means some prisoners are benefiting from errors.

Recording errors

There is no single consolidated record across the criminal justice system of discharge and detention errors. Instead, the information is dispersed across the Queensland Police Service, the courts, and Queensland Corrective Services, and their records are incomplete.

As criminal justice entities do not collate records of errors, we collated the recorded errors across the entities.

Queensland Police Service records

Queensland Police Service is not aware of all of its discharge and detention errors. It records its discharge errors inconsistently across different systems—QPRIME and its Ethical Standards Command's complaint database—but they are not complete. It does not record unlawful detentions in these, or any other, databases.

Queensland Police Service discharge and detention errors usually occur where an offender is remanded in custody awaiting court or where a prisoner has been transferred to the Queensland Police Service by Queensland Corrective Services to attend court. In the latter cases, Queensland Corrective Services usually has a record of the error, but if they determine the Queensland Police Service or the courts caused the error, they do not record it as a reportable incident in their IOMS database.

In total, the Queensland Police Service had 16 discharge errors recorded in its databases for the period of 2004–05 to 2015–16. It had nine discharge errors recorded in its complaints database and seven recorded in QPRIME. There were 11 distinct errors and five errors that were recorded in both databases.

In addition to the Queensland Police Service recording discharge and detention errors in QPRIME and the complaints database, the Queensland Police Service advised us it records detention and release information on individual custody records. We reviewed the custody records for 31 prisoners detained unlawfully or discharged in error (14 unlawful detentions and 17 discharges in error) and found that the Queensland Police Service is not always recording all relevant information relating to a prisoners discharge or detention. Of the 31 custody records, only three records clearly documented that an error had occurred. The remaining 28 records had no reference to the error.

Queensland Police Service procedures focus on escapes from lawful custody or prisoners unlawfully at large, which it advises includes discharges in error. It has no policies or procedures for unlawful detention. It is therefore understandable that it has no record of any unlawful detentions.

Department of Justice and Attorney-General's (court) records

From 2014, the Department of Justice and Attorney-General, which administers the courts, began recording discharge and detention errors, but only those errors that are a direct result of the courts. Two units within the Department of Justice and Attorney-General record incidents of unlawful detention and discharge in error. Both the Legal Advice and Advocacy, and Reform and Support Services units' record errors to capture ex-gratia payments paid by the Department of Justice and Attorney-General to unlawfully detained offenders. In total, the Department of Justice and Attorney-General recorded 36 errors—all unlawful detentions—from January 2014 to 30 June 2016. Of these 36, we identified three records that were not a discharge or detention error and seven records that were recorded in both Department of Justice and Attorney-General data sources, meaning there were 26 individual errors recorded.

Queensland Corrective Services records

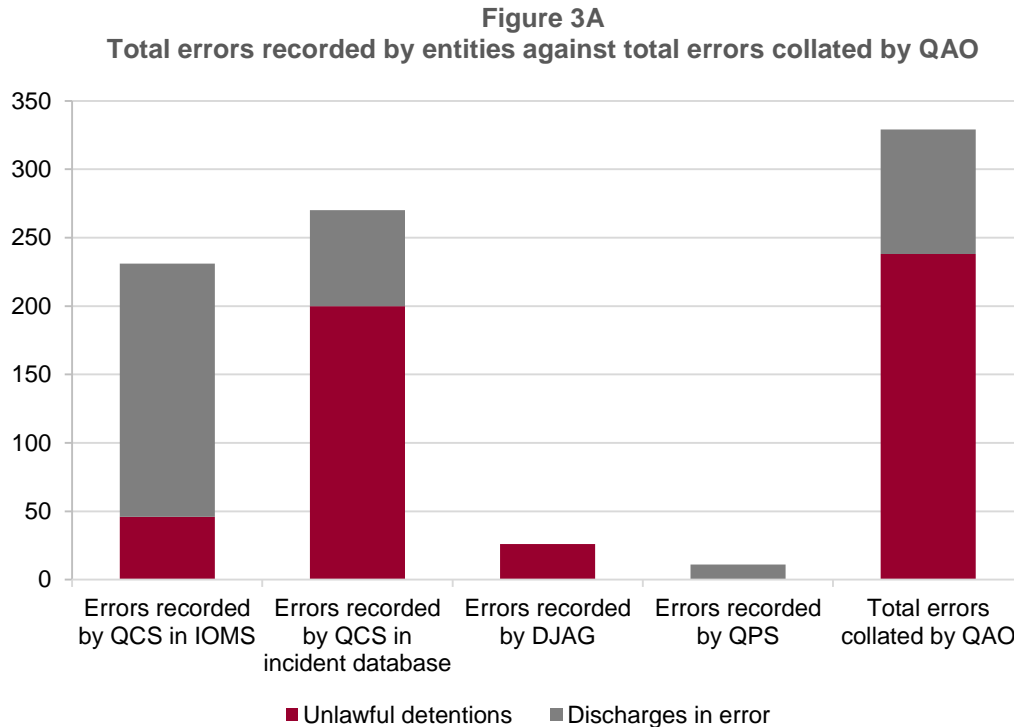
Queensland Corrective Services considers its IOMS database as its primary source for recording its discharge and detention errors and, as such, it expects all errors it attributes to itself to be recorded in IOMS. The Sentence Administration Unit team also records discharge and detention errors in a separate Excel incident database so they can record more details about the errors. This spreadsheet also contains errors Queensland Corrective Services attributes to other entities.

Queensland Corrective Services does not have a complete and accurate record of the total number of discharge and detention errors that have occurred since 2005. From 2005 to 2013, Queensland Corrective Services recorded incidents of unlawful detention in IOMS as discharges in error. In January 2014, Queensland Corrective Services began recording them in IOMS as unlawful detentions. Across the entire period, Queensland Corrective Services also recorded some discharge and detention errors as 'other' incidents rather than discharges in error or unlawful detentions.

We also identified inaccuracies between incidents recorded in IOMS and those recorded in the incident database. Because IOMS is its primary source for recording and reporting errors, all errors Queensland Corrective Services attributed to itself should be recorded in IOMS. This is not the case. Eight errors Queensland Corrective Services attribute to itself were in the incident database but not in IOMS. A further eight errors, four discharges in error and four unlawful detentions, reported to the commissioner in flash briefs were also missing from IOMS. Flash briefs are briefing notes submitted to the Queensland Corrective Services executive to advise of reportable incidents.

Combined records

Figure 3A displays the total number of unlawful detentions and discharges in error recorded by the Department of Justice and Attorney-General, the Queensland Police Service, and Queensland Corrective Services from 2004–05 to 2015–16 against the total number of unique errors that we have collated.



Notes: Errors recorded by the Department of Justice and Attorney-General include errors identified and recorded by Legal Advice and Advocacy, and Reform and Support Services units. Errors recorded by the Queensland Police Service include errors recorded by Ethical Standards Command in its complaints database and errors recorded in QPRIME.

QCS = Queensland Corrective Services; IOMS = Integrated Offender Management System; DJAG = Department of Justice and Attorney-General; QPS = Queensland Police Service; QAO = Queensland Audit Office.

Source: Queensland Audit Office using data from the Integrated Offender Management System (IOMS), Sentence Management Services Current Incident Database, Queensland Corrective Services briefing notes, the Queensland Police Service Ethical Standards Command complaints database, Queensland Police Records Information Management Exchange (QPRIME), Department of Justice and Attorney-General Legal Advice and Advocacy ex-gratia payments, and Department of Justice and Attorney-General Reform and Support Services unlawful imprisonments.

Reporting sentencing errors

We expected that the criminal justice entities would have detailed procedures and practices for reporting discharge and detention errors within each entity and, where appropriate, between the entities and externally.

Internal reporting of discharge and detention errors is poor and inconsistent in all three entities. The three criminal justice entities do not report externally on any discharge or detention errors.

To varying extents, each of the entities has procedures and practices for classifying and reporting discharge and detention errors. Despite this, reporting on these errors within the Queensland Police Service and the Department of Justice and Attorney-General is limited and provides little information to their senior executives. Queensland Corrective Services has extensive internal classification and reporting, but it is incomplete, variable in quality, and inconsistently applied.

Classifying incidents

Queensland Corrective Services classifies incidents using three categories:

- level 1 critical: for example, escape or death of a prisoner
- level 2 significant: for example, discharge in error or the unlawful detention of a prisoner
- level 3 general: for example, medical emergency or trespass.

The level of incident determines the extent of reporting required. Queensland Corrective Services executive are briefed in relation to level 1 and level 2 incidents, but not level 3 incidents.

When categorising an incident, Queensland Corrective Services considers:

- the current operational context
- the magnitude of the incident
- the prisoner's profile
- the likelihood of attracting adverse media attention
- whether there is more than one incident occurring at the same time.

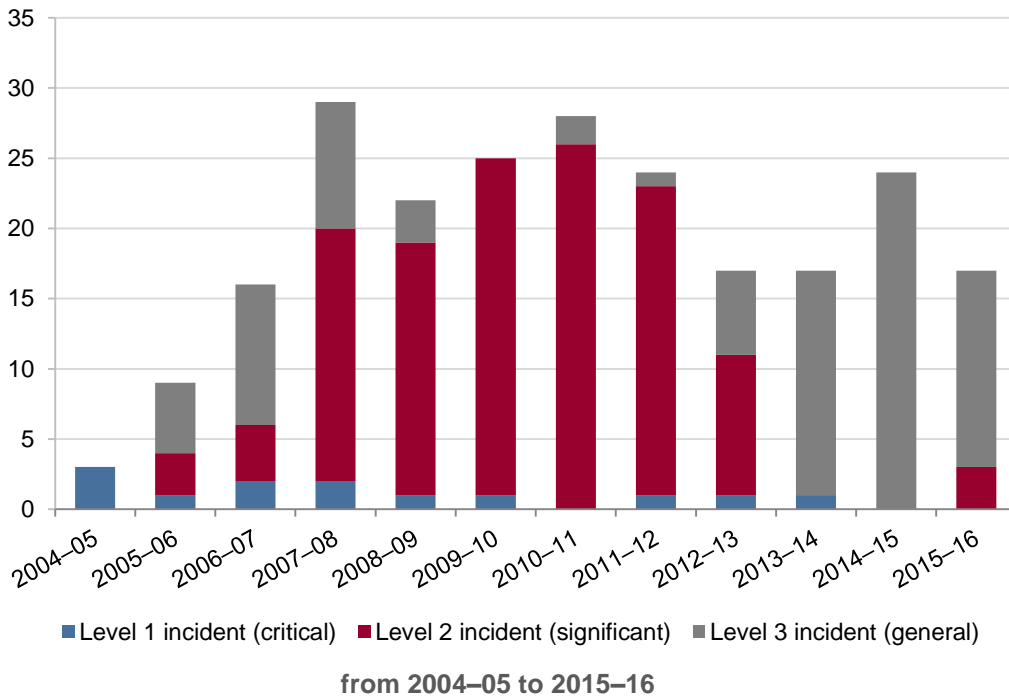
From 2004–05 to 2012–13, Queensland Corrective Services' custodial operations practice directive (practice directive) required staff to classify discharge and detention errors as level 2 significant incidents. In 2013–14, they were reclassified down from level 2 significant incidents to level 3 general incidents. This means that in 2013–14 and 2014–15, Queensland Corrective Services was not reporting these errors to its executive. They were unable to provide evidence of a risk assessment or decision-making process to support the reclassification decision.

Queensland Corrective Services has since reclassified discharges in error and unlawful detentions as level 2 incidents. Queensland Corrective Services was again unable to specify why or when this occurred.

Correctional centres are incorrectly classifying and reporting discharge and detention errors. From 2004–05 to 2012–13, Queensland Corrective Services incorrectly classified 36 discharge and detention errors as general incidents and 12 as critical incidents. Incorrectly classifying incidents means that sentence management staff are not reporting appropriately to the Queensland Corrective Services executive.

Figure 3B displays the incident classification for discharge and detention errors reported from 2004–05 to 2015–16.

Figure 3B
Queensland Corrective Services incident classification for discharge and detention errors reported



Source: Queensland Audit Office using data from the Integrated Offender Management System.

Internal reporting

Internal reporting of discharge and detention errors is variable across the three entities, but none of the entities can demonstrate their processes are consistently followed and all have deficiencies.

Queensland Corrective Services

Queensland Corrective Services has internal reporting processes in place to inform its executive of discharge and detention errors, but it is not adequately documenting that it has followed these processes and appropriately reported all incidents. As a result, its executive cannot be assured they are notified of all incidents.

Queensland Corrective Services' practice directive requires correctional staff to complete an incident report and a flash brief for all level one and level two incidents, including the discharge and detention errors that it attributes to internal causes. Staff must complete the incident report within four hours of the occurrence and it must include the circumstances leading to the error. They must attach the incident report to the record in IOMS. Staff must complete the flash brief by 9.00 am the following business day.

Correctional staff recorded 231 incidents of discharge and detention errors in IOMS from 2004-05 to 2015-16. Despite Queensland Corrective Services' practice directive, correctional staff are not completing incident reports for all discharge and detention errors recorded in IOMS.

Queensland Corrective Services staff submitted flash briefs on 69 per cent (160) of the 231 discharge and detention errors recorded in IOMS from 2004-05 to 2015-16. In one instance out of the remaining 31 per cent, there is evidence of the Queensland Corrective Services commissioner not requiring staff to submit a flash brief.

Queensland Corrective Services also uses phone calls and emails to notify its senior executives of errors but does not maintain a central record of these notifications. As a result, Queensland Corrective Services is unable to demonstrate that it has appropriately reported all discharge and detention errors attributed to it.

Queensland Corrective Services does not require its staff to submit an incident report and a flash brief for occurrences where staff attribute the cause to an external entity, such as the Queensland Police Service or the courts. Queensland Corrective Services assumes that it correctly attributes cause to other entities; however, it does not have a process of checking or validating its attribution. Furthermore, errors where Queensland Corrective Services attributes cause to other agencies can still have an impact on Queensland Corrective Services, such as the need to locate wrongly discharged prisoners and obtain warrants to return prisoners to custody. For this reason, there is value in informing Queensland Corrective Services executive of the quantity and effect of these errors.

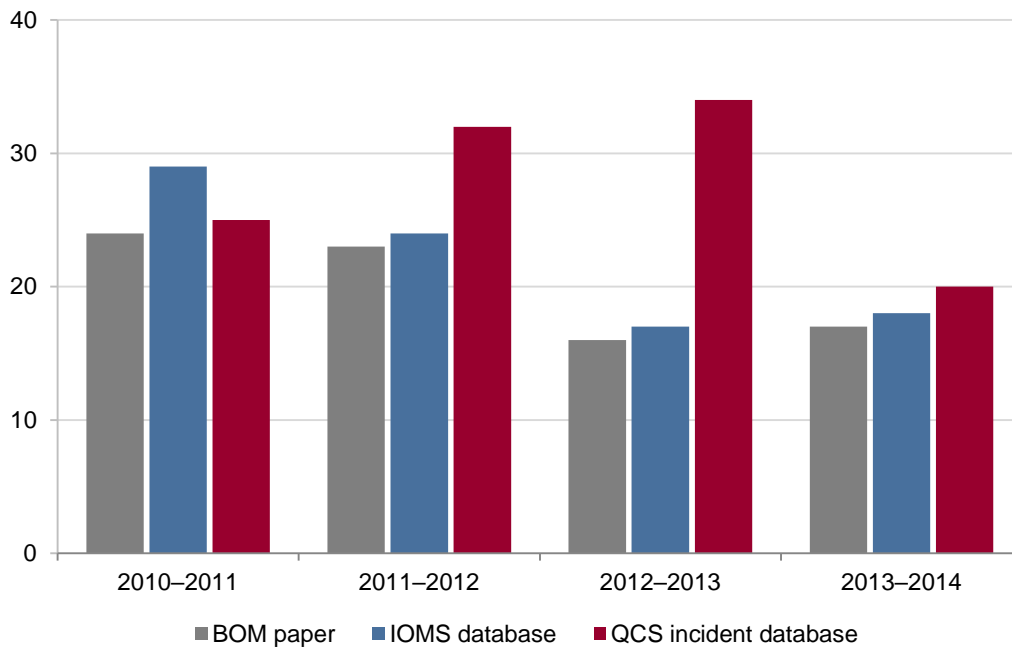
In August 2014, Queensland Corrective Services provided to its senior executive a Board of Management (BOM) paper on discharge and detention errors. The stated purpose of this paper was to provide performance reporting information relating to incidents of unlawful detention and discharge in error. It reported on the number of discharge and detention errors for each financial year between 2010–11 and 2014–15, although the numbers for 2014–15 were not for the complete financial year.

The number of errors reported by Queensland Corrective Services were not complete. The BOM paper reported eight discharge and detention errors less than were recorded in IOMS for this period. In addition, the errors reported to BOM were lower than recorded in the Queensland Corrective Services incident database, but this is because:

- the Queensland Corrective Services incident database includes errors Queensland Corrective Services attributes to other entities
- Queensland Corrective Services only reported errors it attributed to itself in the BOM paper.

Figure 3C shows the difference between reported and recorded errors.

Figure 3C
Difference in errors recorded in Queensland Corrective Services databases and reported in the Board of Management paper



Notes: We have excluded incidents reported in the Board of Management (BOM) report during 2014–15 because they were incomplete—only year to date. Queensland Corrective Services' incident database includes both errors Queensland Corrective Services attributes to itself and those it attributes to other entities.

Source: Queensland Audit Office using data from the Integrated Offender Management System (IOMS), Sentence Management Services Current Incident Database, and a Queensland Corrective Services Board of Management paper dated August 2014.

Queensland Police Service

The Queensland Police Service has no specific policies or procedures for discharge and detention errors. It relies on its general policies and procedures to ensure incidents such as discharge and detention errors are recorded and managed. Their policies and procedures are inadequate for managing discharge and detention errors because they are non-specific, make little reference to these errors, and are scattered across various sub-sections of its *Operational Procedures Manual* and local policies and procedures. Collectively, these provide limited guidance to staff in relation to discharge and detention errors and are not consistently followed.

This is primarily because the Queensland Police Service does not consider prisoner management to be a core role for police. The Queensland Police Service considers managing prisoners and offenders to be a high-risk activity, but it does not consider discharge and detention errors to be high-risk due to the low numbers recorded. This does not take into account:

- that the Queensland Police Service may not be aware of all of its discharge and detention errors
- potential consequences of these errors.

The Queensland Police Service advised that it requires its staff to inform watch house supervisors of any discharge errors. Where the supervisor identifies a breach of procedure or discipline the supervisor is required to report the matter as a complaint to the Queensland Police Service Ethical Standards Command, who record the incident in the complaints database. Escapes from lawful custody are also required, under section 13.5.7, to be recorded in QPRIME.

Queensland Courts Service

The courts have an informal internal process for reporting errors. When staff detect or are informed of an error, they are expected to report it to the court registrar. The registrar is then expected to escalate the error to the regional director and executive directors. However, the courts have not documented, formalised, or broadly communicated this process to staff. Because of a lack of documentation there is little evidence to provide assurance that this process is widely followed.

Reporting between criminal justice entities

Queensland Corrective Services has recorded 98 discharge and detention errors that it attributes to either the Queensland Police Service (43) or the courts (55). Of these 98, we identified three duplicate records (multiple entries of the one error) and three records that were not a discharge or detention error, meaning there were a total 92 unique errors attributed to the Queensland Police Service (39) and courts (53).

Queensland Corrective Services advised us that it informs the Queensland Police Service and the courts of any errors it attributes to these entities, but was unable to provide us with evidence of Queensland Corrective Services referring these matters.

Of the 39 discharge and detention errors attributed to the Queensland Police Service, only one was recorded in the complaints database and none were recorded in QPRIME. We received 26 individual custody records for the 39 discharge and detention errors and only one of these recorded an error.

This means that in the remaining cases either:

- Queensland Corrective Services did not notify the Queensland Police Service of the error, or
- the Queensland Police Service did not record the notification in its database or custody records.

Queensland Corrective Services has attributed court issues as the cause of 53 discharge and detention errors between 2004–05 and 2015–16. Only five of the errors Queensland Corrective Services attributed to courts were also in the Department of Justice and Attorney-General's records.

None of the errors recorded in the Department of Justice and Attorney-General records were present in the Queensland Police Service records.

External reporting

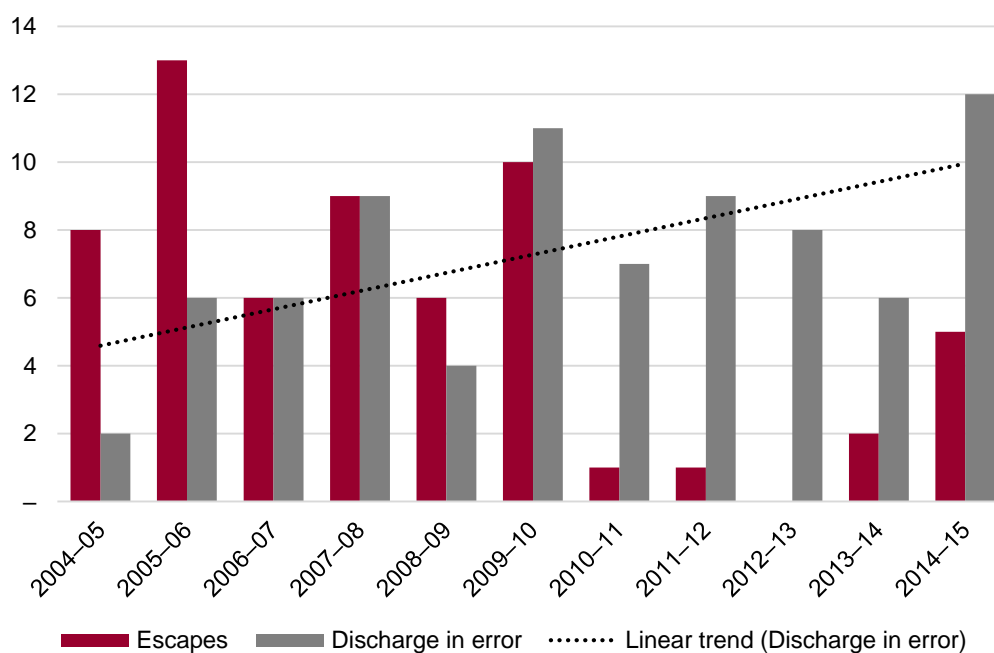
The three criminal justice entities do not publicly report on discharge or detention errors. Queensland Corrective Services does externally report on incidents categorised as level one. For example, Queensland Corrective Services reports on escapes in its Service Delivery Statement and to the Australian Government Productivity Commission for its *Report on Government Services*.

Discharges in error have a similar effect to escapes—both result in prisoners being in the community when they should not be. Between 2004–05 and 2014–15, 61 prisoners escaped from correctional centres. All of these prisoners escaped from open security facilities; none from secure facilities.

In comparison, the justice system discharged 80 prisoners in error from a mix of secure and open security facilities between 2004–05 and 2014–15. Figure 3D shows that, while during this period the number of escapes has been reducing, the number of discharges in error has been increasing.

This brings into question Queensland Corrective Services' reasoning for classifying escapes as level one critical incidents but discharges in error as level two significant incidents.

Figure 3D
Comparison of escapes against discharges in error from 2004–05 to 2014–15



Notes: No data was available for prisoners who have escaped during the 2015–16 financial year.

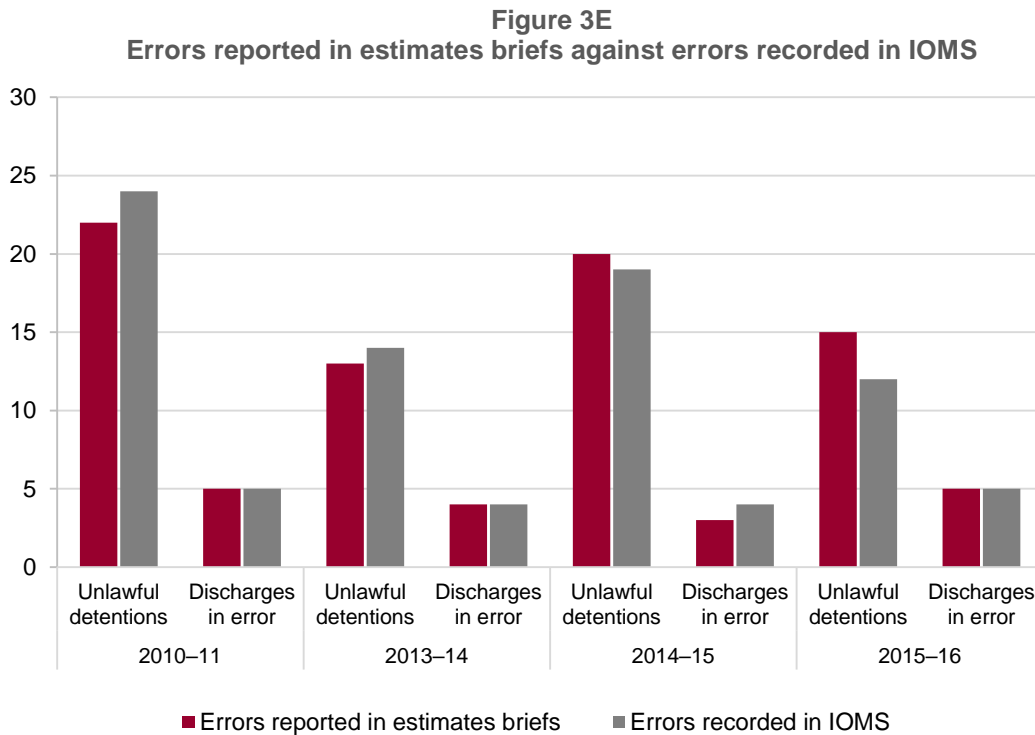
Source: Queensland Audit Office from Report on Government Service and Queensland Corrective Services data.

Ministerial and estimates reporting

Reporting to relevant ministers and the parliamentary estimates hearings has not been complete. The Department of Justice and Attorney-General is not able to brief ministers on the full extent of discharge and detention errors that have occurred because they do not retain complete records of the errors.

Between 2004–05 and 2015–16, Queensland Corrective Services submitted 13 ministerial briefs on discharge and detention errors to its minister. During this period, there were 91 discharges in error and 238 unlawful detentions. Queensland Corrective Services provided its minister parliamentary estimates briefs on discharge and detention errors for all financial years from 2010–11 to 2015–16, except 2011–12 and 2012–13.

Figure 3E shows slight differences for some years between the number of errors reported in the estimates briefs and the number recorded in the Queensland Corrective Services IOMS database.

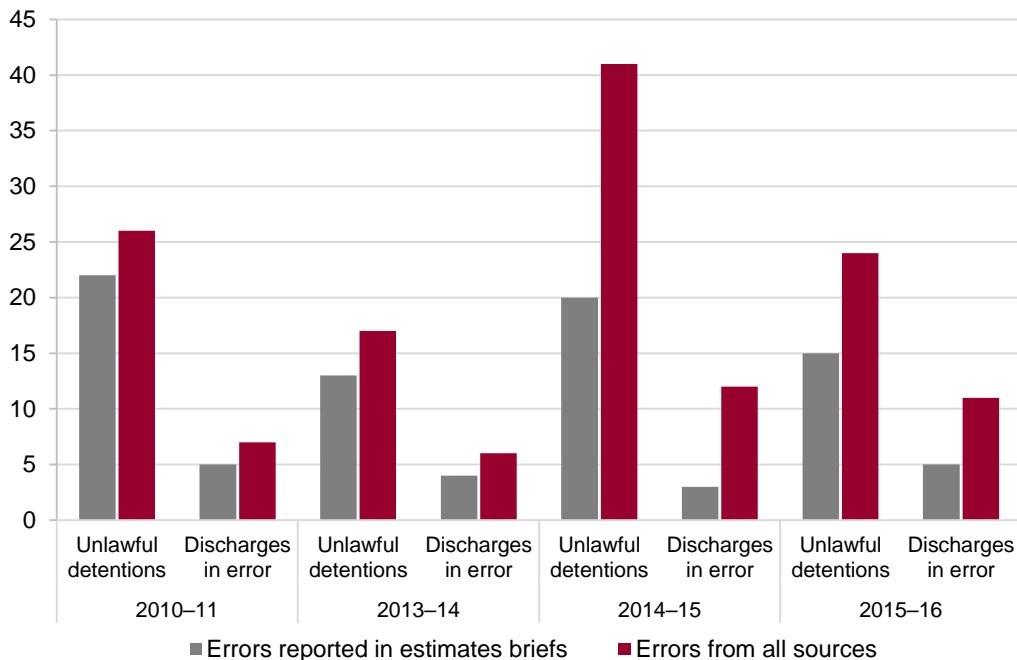


Source: Queensland Audit Office using data from the Integrated Offender Management System (IOMS) and Sentence Management Services Current Incident Database and estimates briefs.

The errors Queensland Corrective Services reported in estimates briefs are an accurate reflection of the errors it attributes to itself, not to the criminal justice system.

The lack of integrated reporting by the criminal justice system means that complete information is not available to answer questions in parliament on the extent of discharge and detention errors. Figure 3F demonstrates what integrated reporting would show compared with what Queensland Corrective Services has reported.

Figure 3F
Errors reported in estimate briefs against total errors from all sources



Source: Queensland Audit Office using data from the Integrated Offender Management System (IOMS), Sentence Management Services Current Incident Database, Queensland Corrective Services briefing notes, Department of Justice and Attorney-General Legal Advice and Advocacy ex-gratia payments, and Department of Justice and Attorney-General Reform and Support Services unlawful imprisonments.

The state government's proposed crime statistics body could potentially assist in integrated criminal justice reporting.

Investigating and addressing the cause of errors

There are disparate informal processes or procedures across the criminal justice system for investigating and addressing the cause of discharge and detention errors, but they are inconsistently applied. Generally, the three entities address them as they individually see fit.

Queensland Corrective Services requires its staff to conduct an operational debrief and in some cases a post incident inquiry (PII) for discharge and detention errors.

Operational debrief

Queensland Corrective Services, through its practice directive, requires correctional centre managers to hold an operational debrief with the responsible staff for all discharge and detention errors. The operational debrief serves as an opportunity to review the events and look at any immediate strategies to mitigate future errors.

From January 2012 to June 2016, Queensland Corrective Services has undertaken operational debriefs for 49 per cent of all the incidents recorded in IOMS. In that time, 92 discharge and detention errors have been recorded in IOMS and only 45 operational debriefs have been undertaken. We found that local and state remedial actions identified from operational debriefs, other than those that result in a PII, rarely address the cause of the error and would be unlikely to improve future practice.

Queensland Corrective Services does not systematically or periodically follow up on debrief actions to ensure its staff have:

- implemented any actions from debriefs
- assessed the effectiveness of their implementation.

Post incident inquiries

Queensland Corrective Services' Specialist Operations unit oversees the incident reporting of discharge and detention errors. In June 2015, Specialist Operations introduced the post incident inquiry (PII) process to investigate and review significant events, such as discharge and detention errors, and make recommendations to prevent them occurring in the future. It is at the discretion of the Executive Director, Specialist Operations to determine whether a PII is required. The Queensland Corrective Services Commissioner may also direct that a PII be undertaken.

Since June 2015, 36 discharge and detention errors have occurred. Of these errors, Specialist Operations have undertaken nine PIIs. For the remaining 27 incidents, Queensland Corrective Services did not record why it chose not to undertake PIIs; nor was the cause of the error apparent.

Queensland Corrective Services has implemented a thorough inquiry process to investigate the cause of sentencing errors. The nine PIIs undertaken provide a detailed description of the events leading up to the sentencing error and the cause of the error. They also identify local and state remedial actions to address the root cause/s of the error. However, Queensland Corrective Services does not have a complete record of the local and state remedial actions it has implemented.

Queensland Corrective Services provided us with some emails to demonstrate that it advises the Queensland Police Service and courts of errors it attributes to them. Because it attributes the cause of these errors to other entities it does not:

- record the error in IOMS as a reportable incident
- conduct an operational debrief
- hold a PII.

Because it does not consistently document the advice it provides there is no assurance that the Queensland Police Service and courts report and investigate all the errors attributed to them.

When a discharge error occurs in a Queensland Police Service watch house a formal investigation will only occur if the error is recorded as a complaint in the Ethical Standards Command complaints database. There were nine such investigations of the 11 (82 per cent) unique discharge errors recorded in the Queensland Police Service databases, but these were complaint-based investigations (focused on staff) rather than root cause investigations. Because it does not record and report unlawful detentions, no investigations of unlawful detention errors occurred.

When Queensland Courts becomes aware of an error the court registrar, regional director, and executive directors inquire into the matter to determine cause. However, this process is not documented or formalised and the outcomes of the inquiry are not always captured.

Addressing the cause of errors

From 2009 to 2011, Queensland Corrective Services established a sentence calculation project to address recommendations made by the chief inspector following an investigation into an elevation in the number of discharge and detention errors. The project had two main aims:

- to design and implement short-term risk mitigation strategies
- to design an improved and sustainable business model for the delivery of sentence administration functions.

The project:

- developed and implemented a sentence calculation procedure and manual
- implemented statewide teleconferences and staff newsletters for sentence management staff
- co-ordinated the delivery of sentence calculation training on a statewide basis
- enhanced IOMS to better support sentence administration and calculation processes
- established an interagency working party to address issues relating to lawful detention
- established Queensland Corrective Services and other agency contact persons within entities, including the Queensland Police Service, the Office of the Director or Public Prosecutions, and the Department of Communities to address issues relating to lawful detention.

The statewide sentence calculation training was not ongoing.

The criminal justice entities established interagency meetings in 2009 to look at solutions for reducing incidents of unlawful detention and discharge in error. While the meetings were aimed at reducing the error rate from a whole of government perspective, the meetings had a different focus depending on the entities. These were:

- The Department of Justice and Attorney-General and Queensland Corrective Services—focused on identifying and addressing issues impacting on the ability for Queensland Corrective Services to enforce the orders of the court.
- The Queensland Police Service and Queensland Corrective Services—focused on addressing errors relating to incidents of unlawful detention and discharge in error.
- The Office of the Director of Public Prosecutions and Queensland Corrective Services—focused on addressing issues relating to presentence custody and other matters related to the lawful detention of people.

These meetings were disbanded around 2014. This was because the entities decided that the working relationships formed through the meetings allowed for a quick resolution of an issue without the need for formal meetings.

In 2014, the Department of Justice and Attorney-General established 'Expert Reference Group', which included courts and Queensland Corrective Services. The group convened until 2015. During the audit, the Department of Justice and Attorney-General decided to reform this group and has invited the Queensland Police Service to participate.

Appendices

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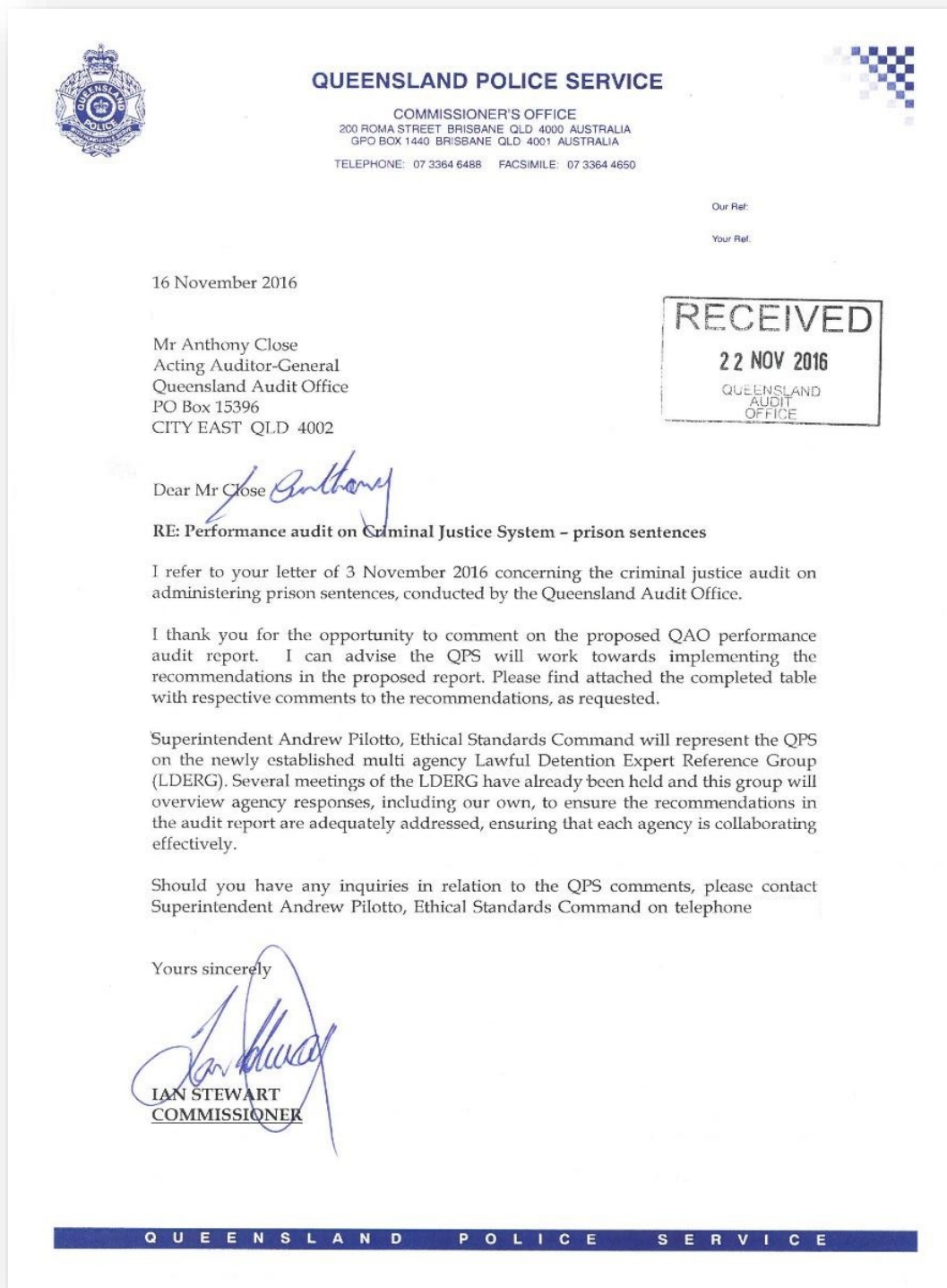
Appendix A—Full responses from agencies

As mandated in s.64 of the *Auditor-General Act 2009*, the Queensland Audit Office gave a copy of this report with a request for comments to the Department of Justice and Attorney-General and the Queensland Police Service.

The head of these agencies are responsible for the accuracy, fairness and balance of their comments.

This appendix contains their detailed responses to our audit recommendations.

Comments received from Commissioner, Queensland Police Service



Responses to recommendations



Queensland Police Service, Criminal justice system — prison sentences (Report No. XX: 2016–17)

Response to recommendations provided by Assistant Commissioner, Ethical Standards Command,

Recommendation	Agree / Disagree	Timeframe for Implementation (Quarter and Year)	Additional Comments
<p>We recommend the Department of Justice and Attorney-General in collaboration with the Queensland Police Service:</p> <ol style="list-style-type: none"> 1. better integrate the sentencing administration processes and quality assurance to reduce the risk of error including: <ul style="list-style-type: none"> ▪ improve the sharing of sentencing information and documents across criminal justice entities ▪ make greater use of technology such as remote (electronic) appearance of prisoners in court to reduce process, communication and data entry errors associated with the transfer of prisoners; and providing means for direct entry of sentence orders into QWIC ▪ strengthen quality assurance practices. 2. assess the need to review relevant sentencing legislation to reduce the complexity of sentence calculations 	<p>Agree</p>	<p>June 2017</p>	<p>The Department of Justice and Attorney-General and the Queensland Police Service have re-established a Lawful Detention Expert Reference Group of senior representatives from Courts, Corrective Services and Police to recommend intra-departmental solutions to mitigate the risk of unlawful detention or release of prisoners.</p> <p>The members of the group are well-placed to agree and implement inter-agency action. This group will be the body to oversee the implementation of responses to the Report recommendations.</p> <p>To provide appropriate performance accountability and oversight of responses to this reports recommendations, the Expert Reference Group will report progress quarterly to the Commissioner of Queensland Corrective Services, Deputy Director-General, Justice Services and Deputy Commissioner Queensland Police Service</p> <p>The Department of Justice and Attorney-General will develop an appropriate action plan in collaboration with the Queensland Police Service which sets out clear deliverables and implementation timeframes between the agencies.</p> <p>The Lawful Detention Expert Reference Group will have ongoing responsibility for the effective implementation of the action plan.</p>
<p>Queensland Police Service on 14/11/2017.</p>			

Responses to recommendations



3. ensure the appropriate capacity, capability and training of staff responsible for the calculation and administration of sentences across the criminal justice system is in place	Agree	December 2017	The QPS will review and assess its current capacity, capability and training, to be overseen by the Lawful Detention Expert Reference Group.
4. Improve the accuracy and level of detail recorded about discharge and detention errors. Consolidate the recording and reporting of the errors within and across the three entities	Agree	June 2017	<p>The Department of Justice and Attorney-General's Lawful Detention Expert Reference Group will be responsible for the development of an action plan that incorporates improvements to the accuracy and level of detail recorded about discharge and detention errors and the consolidated recording and reporting of errors within and across the three agencies.</p> <p>The Lawful Detention Expert Reference Group will have ongoing responsibility for the effective implementation of the action plan.</p>
<p>5. Formalise, implement or update where necessary, policies and procedures for responding to, managing, reporting and investigating discharge and detention errors. Policies and procedures should address as a minimum:</p> <ul style="list-style-type: none"> • communication protocols for prisoners affected by, and individuals potentially at risk from, discharge and detention • assessing risk to the community and individuals and where needed mitigation strategies • reporting requirements within individual entities and across the criminal justice system • investigating discharge and detention errors (collaboratively where appropriate) • quality checks to ensure that processes are followed. 	Agree	June 2017	<p>The QPS will review existing policies and procedures for responding to managing, reporting and investigating discharge and detention errors.</p> <p>The Lawful Detention Expert Reference Group will overview this process.</p>

Recommendation	Agree / Disagree	Timeframe for Implementation (Quarter and Year)	Additional Comments
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Comments received from Director-General, Department of Justice and Attorney-General



Department of Justice and Attorney-General
Office of the Director-General

In reply please quote: 3527115

24 NOV 2016

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Dear Mr Close

Thank you for your letter dated 3 November 2016 regarding the Queensland Audit Office's (QAO) proposed report to Parliament – Performance Audit on Criminal Justice System – prison sentences.

The report has been reviewed closely by the Department of Justice and Attorney-General (DJAG) Courts Service and Queensland Corrective Services (QCS) divisions in conjunction with the Queensland Police Service (QPS). I understand that the QPS will be responding separately.

DJAG welcomes your report on this important issue and is committed to maintaining public safety and improving collaboration across the criminal justice system in the management of sentences.

The proposed report highlights that the effective, efficient and accurate administration of prison sentences is a complex matter that needs to take into consideration a number of factors across the criminal justice system. DJAG's Courts Service and QCS divisions both play a key role in the administration of sentences in the criminal justice system.

The report suggests that the number of sentence administration errors has fluctuated from year to year and the overall trend of sentence administration errors is increasing. DJAG is unable to substantiate the validity of all the claims made within the report, given complete court data on errors is unavailable.

The error rate reported by QAO is 0.66 for every 1,000 prisoners in 2005-06 and 1.63 for every 1,000 prisoners in 2015-16. The position can also be described by referring to the 99.8% of prisoners managed by the system who serve sentences without sentencing errors. Obviously, as the prison population has increased, the absolute number of individual prisoners affected by sentencing errors has grown, but it remains the case that almost all prisoners serve sentences without sentencing errors. Furthermore, the report shows that of the very small number of prisoners who were affected by a sentence administration error, these errors were generally for periods of 10 days or less.

It should also be noted that the errors identified by QAO occurred in the wider context of a significant and growing volume of matters being managed across the criminal justice system, as demonstrated by the total number of custodial admissions and discharges and Verdict and Judgement Records (VJR) issued per annum. Over the last five years, since the introduction of VJRs, the Queensland Courts Service has issued on average 74,000 VJRs per annum. QCS has admitted and discharged over 20,000 prisoners per annum over the last ten years. The total number of errors identified by the QAO represents less than 1% of processes completed in administering prison sentences.

Comments received from Director-General, Department of Justice and Attorney-General

(2)

Notwithstanding the high volume of matters that are already being successfully managed, DJAG aspires to achieving a zero level of errors in the management of prison sentences. QCS has made significant improvements to the processes of administering prison sentences progressively over time with the most significant being the establishment of the State-wide Sentence Management Services function. This was the culmination of a significant critical examination by QCS of its sentence administration processes in 2009-10.

DJAG's aspiration to have no errors in the management of prison sentences will be reinforced through sustained improvement processes and quality assurance practices. DJAG will work collaboratively with the QPS to address the recommendations and improve processes to minimise future occurrences of errors more broadly. This will include ensuring sentence information and documents are distributed between the entities, proactively utilising existing systems and investigating new technological options to minimise errors and establishing strategies to identify and explain issues. However, you would be aware that new technology would require significant new investment and is not a short term solution.

Collaboration between the justice entities has already commenced with the recent re-establishment of the Lawful Detention Expert Reference Group (LDERG) consisting of senior representatives from Queensland Courts Service, QCS and QPS. This group will work collaboratively to recommend solutions to mitigate the risk of unlawful detention or early discharge of prisoners.

The line-area executives on the LDERG are well-placed to identify, agree and implement inter-agency actions. This group will oversee the implementation of responses to the Report's recommendations and report on progress to the Commissioner, QCS, Deputy Director-General, Justice Services and Deputy Commissioner, QPS. This governance structure will also be suitable for escalating issues that may emerge during implementation.

As requested, please find attached the completed table regarding the recommendations contained in the report. DJAG supports all of the recommendations.

Thank you for providing me with the opportunity to comment on the proposed report. I note that comments have also been provided separately at officer level in relation to formatting, inconsistencies in the periods examined and the desirability of providing additional information about the prisoners the subject of the identified errors.

I ask that you publish both the table and this letter with the report.

Yours sincerely



David Mackie
Director-General

Enc.

Responses to recommendations



Department of Justice and Attorney-General, Criminal Justice System — Prison Sentences (Report No. XX: 2016–17)

Recommendation	Agree / Disagree	Timeframe for Implementation (Quarter and Year)	Additional Comments
<p>We recommend the Department of Justice and Attorney-General in collaboration with the Queensland Police Service:</p> <ol style="list-style-type: none"> Better integrate the sentencing administration processes and quality assurance to reduce the risk of error including: <ul style="list-style-type: none"> improve the sharing of sentencing information and documents across criminal justice entities make greater use of technology such as remote (electronic) appearance of prisoners in court to reduce process, communication and data entry errors associated with the transfer of prisoners; and providing means for direct entry of sentence orders into QWIC strengthen quality assurance practices 	Agree	June 2017	<p>The Department of Justice and Attorney-General will develop an action plan in collaboration with the Queensland Police Service which sets out clear deliverables and implementation timeframes between the agencies.</p> <p>The Department of Justice and Attorney-General and the Queensland Police Service have re-established a Lawful Detention Expert Reference Group of senior representatives from Queensland Courts Service, Queensland Corrective Services and Queensland Police Service to recommend intra-departmental solutions to mitigate the risk of unlawful detention or release of prisoners.</p> <p>The Lawful Detention Expert Reference Group will have ongoing responsibility for the effective implementation of the action plan and will work with relevant judicial officers and courts support staff to explore the viability of innovative solutions which may provide means for direct entry of sentence orders into QWIC.</p> <p>The Department of Justice and Attorney-General and the Queensland Police Service will continue to explore opportunities to make greater use of technology to enable the appearance of prisoners in court. A trial of defendants appearing by video link from a police watch house, aiming to increase safety and reduce process, will commence in early 2017.</p> <p>To provide appropriate performance accountability and oversight of responses to the recommendations, the Expert Reference Group will report progress quarterly to the Commissioner of Queensland Corrective Services, Deputy Director-General, Justice Services, Department of Justice and Attorney-General and Deputy Commissioner Queensland Police Service.</p>

Responses to recommendations



2. Assess the need to review relevant sentencing legislation to reduce the complexity of sentence calculations

Agree

June 2018

The legislative provisions relevant to imprisonment calculations are found primarily in part 9 of the *Penalties and Sentences Act 1992* and also in the *Corrective Services Act 2006*.

The Department of Justice and Attorney-General will consult with stakeholders, both internal and external to Government, to assess whether discharge and detention errors are due in part to any complexity inherent in the relevant legislative provisions.

This assessment will also consider any relevant findings and recommendations in the final report of the Queensland Parole System Review, led by Mr Walter Sofronoff QC which is due on 30 November 2016.

The timeframe for implementing this recommendation recognises the need to assess the operational response of the Department of Justice and Attorney-General to the Audit findings, in particular recommendations 1 and 3. The results of implementing these recommendations will impact on the assessment of the need for a legislative response.

2

Responses to recommendations



Recommendation	Agree / Disagree	Timeframe for Implementation (Quarter and Year)	Additional Comments
3. Ensure the appropriate capacity, capability and training of staff responsible for the calculation and administration of sentences across the criminal justice system is in place	Agree	December 2017	The Department of Justice and Attorney-General will review and assess its current capacity, capability and training and formulate an action plan referred to in response recommendation 1 to work on improvement opportunities. This work will be overseen by the Lawful Detention Expert Reference Group.
4. Improve the accuracy and level of detail recorded about discharge and detention errors. Consolidate the recording and reporting of the errors within and across the three entities	Agree	June 2017	<p>The Department of Justice and Attorney-General's Lawful Detention Expert Reference Group will be responsible for developing an action plan as outlined above in response to recommendation 1 to improve the accuracy and level of detail recorded about discharge and detention errors and to consolidate recording and reporting of errors within and across the three agencies.</p> <p>The Lawful Detention Expert Reference Group will have ongoing responsibility for the effective implementation of the action plan.</p>

Responses to recommendations



Recommendation	Agree / Disagree	Timeframe for Implementation (Quarter and Year)	Additional Comments
<p>5. Formalise, implement or update, where necessary, policies and procedures for responding to, managing, reporting and investigating discharge and detention errors. Policies and procedures should address as a minimum:</p> <ul style="list-style-type: none"> • communication protocols for prisoners affected by, and individuals potentially at risk from, discharge and detention • assessing risk to the community and individuals and where needed mitigation strategies • reporting requirements within individual entities and across the criminal justice system • investigating discharge and detention errors (collaboratively where appropriate) • quality checks to ensure that processes are followed. 	Agree	August 2017	<p>The Department of Justice and Attorney-General will review existing policies and procedures and develop an action plan as outlined in our response to recommendation 1 which at a minimum formalises, implements or updates where necessary policies and procedures for responding to, managing, reporting and investigating discharge and detention errors.</p> <p>The Lawful Detention Expert Reference Group will have ongoing responsibility for the effective implementation of the action plan.</p>

Appendix B—Audit objectives and methods

Audit objective and scope

This is the first of two reports for this audit.

The objective of the audit is to determine whether criminal justice data is reliable and used cost-effectively.

The audit is addressing the objective through the following lines of inquiry and criteria.

Figure B1
Audit program

Lines of inquiry		Criteria	
1	Criminal justice data is reliable	1.1	Criminal justice data is complete, accurate, valid, and recorded in a timely manner.
		1.2	Criminal justice data information systems have appropriate data integrity controls.
2	Relevant criminal justice data is integrated and accessible only to criminal justice agencies that need it	2.1	Criminal justice data is linked across the criminal justice system enabling effective exchange of data.
		2.2	Relevant criminal justice data is readily accessible to appropriate criminal justice agencies without compromising information security/confidentiality/privacy.
3	Criminal justice data is used effectively by criminal justice agencies	3.1	Criminal justice data is analysed regularly to identify trends and develop, implement, and evaluate criminal justice strategies and policy.
		3.2	Reporting of criminal justice data is valid, unambiguous, accurate, and transparent in disclosing limitations.

Source: Queensland Audit Office.

Reason for the audit

The availability and reliability of crime and sentencing statistics is important in order to be able to measure and monitor the effectiveness of the state's criminal justice system.

From July 2002 to December 2009, the Queensland Government spent \$62.746 million on its Integrated Justice Information System (IJIS) program, with the objectives to:

- investigate and develop an electronically based information-sharing system between criminal justice agencies (replacing legacy paper-based document sharing practices)
- streamline existing information exchange processes
- develop rules to guide what, when, and how information is shared between the respective agencies.

Over the past five years, the integrity of Queensland's criminal justice data and the statistics that are reported has been questioned. Similarly, other jurisdictions like Victoria have identified anomalies in the way crimes are recorded, leading to a significant distortion of crime clearance rates.

In response, the Queensland Government, in its 2015–16 and 2016–17 state budgets, has committed a total of \$8.4 million over three years to establish an independent crime statistics body. Its stated purpose in establishing this body is to collect data and monitor organised crime, as well as impacts and trends across all crime types.

The objective of our audit is to assess the reliability and cost-effectiveness of criminal justice data. This component of the audit examined how well the Queensland criminal justice system exchanges and records data to calculate and administer custodial (prison) sentences accurately. We focused on the public sector entities carrying out sentences. We did not consider the decisions and sentences of magistrates and judges as part of the audit.

Performance audit approach

We conducted the audit in accordance with the Auditor-General of Queensland Auditing Standards, which incorporate Australian Auditing and Assurance Standards.

We commenced the audit in March 2016 and included:

- Queensland Police Service
- Department of Justice and Attorney-General
- Queensland Corrective Services
- Public Safety Business Agency (PSBA).

We obtained information and data from the three key databases: QPRIME (the Queensland Police Service), QWIC (the Department of Justice and Attorney-General), and IOMS (Queensland Corrective Services), and held meetings with key staff and stakeholders.

We analysed data and information flows across the criminal justice system. In doing this, a number of findings emerged from the audit about administering prison sentences. In further exploring these findings we:

- collated and analysed information and data from Queensland Corrective Services, the courts, and the Queensland Police Service related to administering prison sentences
- interviewed key staff of the three entities
- interviewed key stakeholders relevant to the administration of prison sentences
- obtained complaint data from the Queensland Ombudsman
- examined publicly available data and information
- assessed documents, policies, procedures, and guidelines for administering prison sentences.

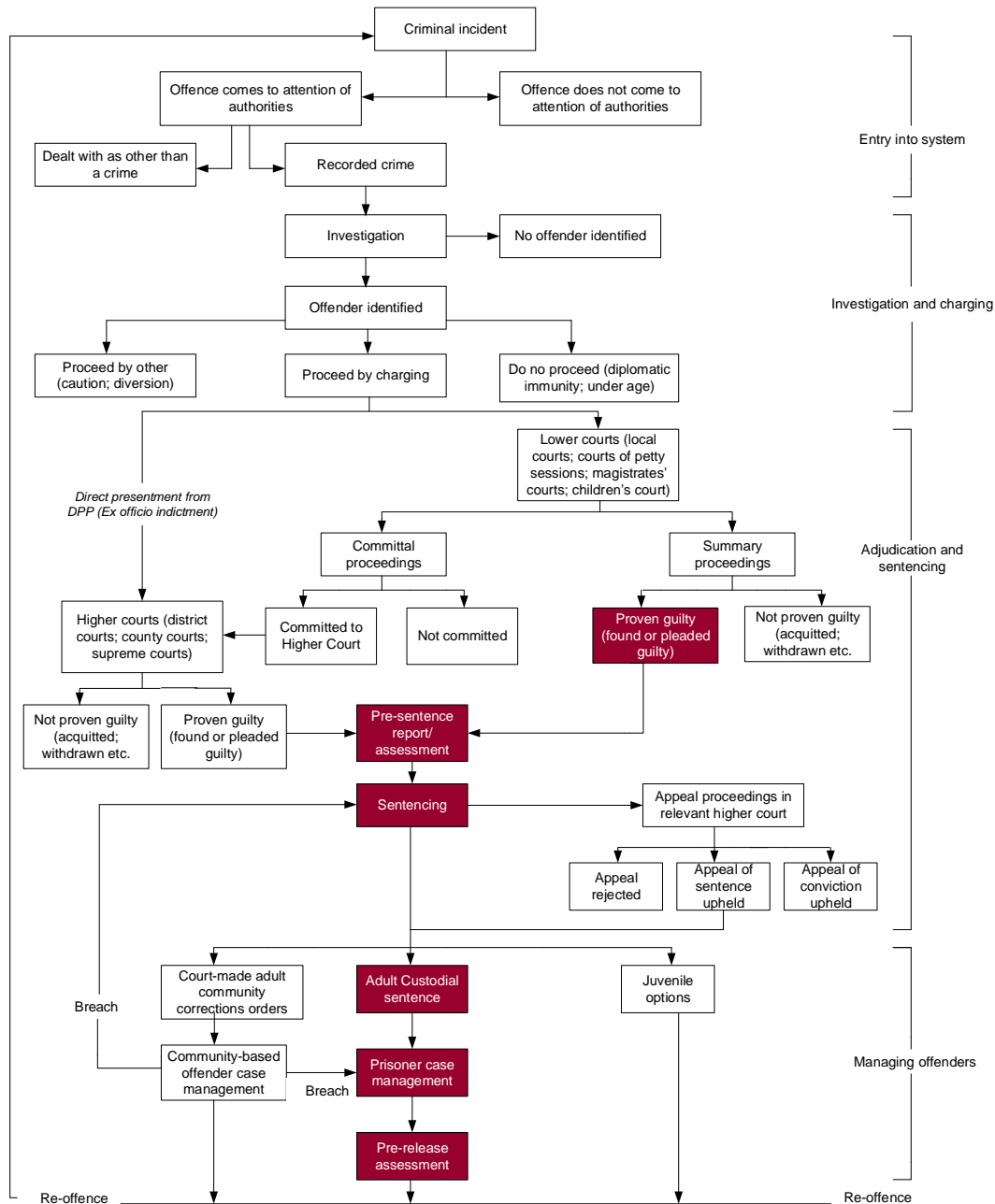
Based on the number and significance of the findings, we decided to provide the parliament with a separate report that focuses only on the sentence administration matters.

The remaining criminal justice data audit findings will be included in a second report to parliament.

Appendix C—Criminal justice system flows

Figure C1 shows the typical flow of events in the criminal justice system. It clearly shows the roles of police, courts, and corrective services, and the sequencing of their involvement. This depiction is broadly indicative and, for brevity and clarity, does not seek to capture all the complexities of the criminal justice system or variations across jurisdictions. We have coloured the main sections of this flow relevant to this audit.

Figure C1
Flows through the criminal justice system



Note: Coloured sections denote the main flows relevant to this audit and report.

Source: Australian Government Productivity Commission, Report on Government Services 2015, Justice Sector Overview, Figure C.1, page C.5.

Appendix D—Sentence calculation

The following example demonstrates the calculation of two sentences by Queensland Corrective Services.

Figure D1
Sentence calculation process

Multiple sentences — commencing from the court sentencing date

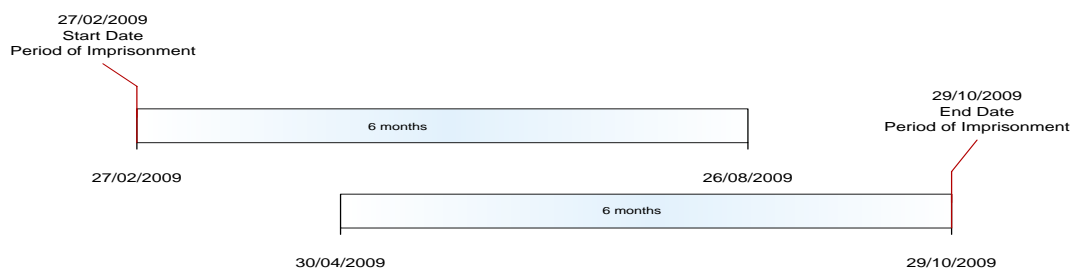
On 27 February 2009, a prisoner is sentenced to 6 months imprisonment.

	Day	Month	Year	
	27	2	9	Enter start date
+		6		Add sentence length ordered by court
	27	8	9	Calculate new date
-	01			Subtract 1 day
	26	8	9	End date

On 30 April 2009, an offender is sentenced to 6 months imprisonment (concurrent).

	Day	Month	Year	
	30	4	9	Enter start date
+		6		Add sentence length ordered by court
	30	10	9	Calculate new date
-	01			Subtract 1 day
	29	10	9	End date

The above offences timeline is as follows:



The prisoner's period of imprisonment commences on 27 February 2009 and ends on 29 October 2009. The prisoner's period of imprisonment is 8 months and 1 day.

	Day	Month	Year	
	29	10	9	Enter latest end date
-	27	2	9	Enter earliest start date
	2	8	0	Calculate period between
+	01			Add 1 day so the end date is included
	1	8	0	Period of imprisonment

The period of imprisonment is 8 months 1 day. +

Source: Queensland Corrective Services.

Auditor-General reports to parliament

Reports tabled in 2016–17

Number	Title	Date tabled in Legislative Assembly
1.	Strategic procurement	September 2016
2.	Forecasting long-term sustainability of local government	October 2016
3.	Follow-up: Monitoring and reporting performance	November 2016
4.	Criminal justice system—prison sentences	November 2016

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