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10 JAN 2020



Office of the
Director-General

Mr John Robertson
Chair
Queensland Sentencing Advisory Council
[REDACTED]

Department of
**Communities,
Disability Services
and Seniors**

Dear Mr Robertson

Thank you for your letter advising of the inquiry in relation to penalties for assaults on police and other frontline emergency service workers, corrective service officers and other public officers.

I nominate Ms Sharon White, Manager, Policy and Legislation to be the key point of contact for the Department of Communities, Disability Services and Seniors. Ms White can be contacted on [REDACTED] or at [REDACTED]

Regarding your request for preliminary feedback to assist in identifying key issues and for information that may be held by this agency about individuals involved in assaults, I provide the following information to assist with your inquiry:

Connection with the Department of Communities, Disability Services and Seniors (DCDSS)

There are two areas administered by DCDSS which are of relevance to the Queensland Sentencing Advisory Council's inquiry. These are the Forensic Disability Service (FDS) and Accommodation Support and Respite Services (AS&RS).

In relation to the FDS, the forensic disability service system supports people who are alleged to have committed a serious offence and who are determined by the Mental Health Court to be of unsound mind at the time of the offence, or unfit for trial, as a consequence of their intellectual or cognitive disability. The Mental Health Court may make a forensic order or a forensic order (disability).

The vast majority of clients are on a forensic order and live in the community under the supervision of the Chief Psychiatrist. A small number of clients also on a forensic order are detained to an Authorised Mental Health Service. An even smaller number of clients again are on a forensic order (disability) and are detained to the FDS.

DCDSS is responsible for administering the FDS under the *Forensic Disability Service Act 2011* (Qld). The FDS is a purpose-built, medium secure residential care facility solely for FDS clients with oversight by the Director of Forensic Disability, which is a statutory role. The FDS has capacity to support up to 10 clients.

The FDS employs 56 clinicians and forensic officers on a continuous shift work cycle to support clients with habilitation and rehabilitation, as set out in the Individual Development Plan. DCDSS is also a registered service provider under the National Disability Insurance Scheme, with services provided through AS&RS.

AS&RS provides short-term respite and accommodation services to people with disability residing in the community. Accommodation services primarily includes direct in-home support to people with a primary diagnosis of an intellectual disability who require assistance to enable them to live as independently as possible within their community. Short term overnight respite services are delivered, via centre based facilities, for people with disability that permanently reside with their family.

AS&RS has 11 service locations across Queensland, employing 1393.43 staff in various roles from management to direct support. AS&RS employs various staff to enable the operation of the service.

A significant role is that of the Residential Care Officer (RCO). RCOs provide direct support to people with a disability in their home or respite centre. Within accommodation support and respite services, the role of the RCO includes providing assistance with meals, personal hygiene and direct care supports. RCOs are supported by the Direct Support Team Leaders and Team Leaders for expert advice and assistance in delivering accommodation and respite services.

Policies and procedures

In relation to both AS&RS and the FDS, staff must follow policies and procedures in accordance with the Critical Incident Reporting Policy and Procedure when a workplace injury occurs. Where a critical incident results in an injury to a departmental staff member, a Workplace Injury, Illness and Incident Report Form must also be completed.

While FDS staff are employed by DCDSS under the *Forensic Disability Service Act 2011* (Qld), the Director of Forensic Disability must issue policies and procedures about the detention, care and support and protection of forensic disability clients.

It should also be noted that section 119 of the *Forensic Disability Service Act 2011* (Qld) contains an offence to obstruct an official when exercising their power under the Act, unless the person has a reasonable excuse. Section 119 is not limited to the clients residing in the FDS and may therefore extend to visitors to the facility. This may be of relevance to your inquiry, however there is no evidence the offence has been extensively utilised.

Data collection

The FDS collates data with regard to incidents involving workplace violence. This includes, but is not limited to, incidents involving client to staff threats of violence and any incidents involving an assault on clients. In general, incidents involving client-to-staff harm will result in an internal review to ensure there are controls implemented to prevent future reoccurrence.

Injuries occurring to AS&RS staff are recorded in the Workplace Injury Reporting Form database within DCDSS. Information is held for all incidents directly impacting public service employees in the course of their duties, including assaults, the nature of injuries caused and any compensation as a result of workplace injuries.

However, it should be noted there are limitations regarding the data collection. The operations of DCDSS have changed substantially, largely due to the implementation of the National Disability Insurance Scheme. Accordingly, the information systems used and the types of data collected by this department has changed over time and historical data may not be able to be collected.

Staff training

Both AS&RS and FDS staff are provided with appropriate training to ensure the safety and protection of the client, themselves and others and to provide a safe work environment.

The FDS provides all staff with induction and training, specifically with regard to safe working practices when responding to incidents involving workplace violence. Training is mandatory for all staff and is delivered alongside evidence based programs that focus on Positive Behaviour Support and trauma-informed responses.

AS&RS staff are also provided with induction and training to respond to incidents to ensure safe work practices when delivering direct accommodation and respite support services to clients. RCOs who are supporting a person with challenging behaviours are provided with specific training that is consented to in an approved Positive Behaviour Support Plan for the person. Training in the Positive Behaviour Support Plan ensures RCOs are able to implement the appropriate strategies to maintain the clients and staff members' safety.

Key issues relevant to the inquiry

Needs of people with disability

People with disability may have histories of trauma and heightened vulnerabilities, which create stressors and contribute to them exhibiting challenging behaviours to situations based on their experiences. Challenging behaviour includes for example, aggressive outburst behaviour.

People with an intellectual disability, in particular, may be at a heightened risk of exhibiting challenging behaviours due to the associated issues of difficulties in expressing their needs and wants due to communication impairments. An intellectual disability is a cognitive impairment characterised by significant limitations in intellectual functioning and adaptive behaviour. It is also important to note that people with an intellectual disability who are subject to Forensic Orders are more likely to have been victimised and exposed to violence, sexual abuse and traumatic experiences during their early childhood and adolescence when compared to the general population.

To inform an appropriate policy response, there needs to be particular understanding given to assaults perpetrated and challenging behaviour exhibited by some people with disability. Consideration needs to be given what constitutes assault in these circumstances.

Some staff in DCDSS work in a unique and complex environment with clients who may have limited adaptive skills due to their neurological impairment leading to their outburst behaviour. Any unintended consequences for people with disability who may be impacted in relation to any proposed reform will need to be considered.

Pertinent to your inquiry would also be any findings from the inquest of Mr Manmeet Sharma, a bus driver who died following an incident with a man with mental illness. The inquest will consider what further actions, if any, could be undertaken to prevent a similar tragedy from occurring again in Queensland.

Disability Royal Commission

You may be aware that the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (Royal Commission) has commenced.

The Royal Commission will examine the mistreatment of people with disability in all contexts and settings, with a particular focus on what governments, institutions and the community should do, to prevent and respond to violence, abuse, neglect and exploitation of people with disability.

The Terms of Reference for the Royal Commission are broad. The Royal Commission may identify issues which potentially intersect with your inquiry and it may be worth your agency monitoring the Royal Commission from this perspective. An interim report from the Royal Commission is not due until 30 October 2020, subsequent to the date you are due to report.

I am committed to creating a safe work environment for staff. Any proposed reform in relation to penalties for assaults on frontline workers needs to be balanced with the consideration of the needs and human rights of people with a disability and an appropriate policy response.

If you require any further information or assistance in relation to this matter, please contact Ms White on the above details or Ms Elizabeth Bianchi, Executive Director, Strategic Policy and Legislation, DCDSS on [REDACTED] or at [REDACTED]

I trust this information is of assistance.

Yours sincerely



Clare O'Connor
Director-General