

# Chapter 12 Enhancing community knowledge and understanding

## 12.1 Introduction

Among those matters the Council has been asked to report on, the Terms of Reference ask it to 'identify ways to enhance community knowledge and understanding of the penalties for this type of offending'.

In this chapter we discuss strategies to improve public knowledge and understanding of assaults on public officers and the penalties that may be applied with a view to reducing the incidence of such offences. We also discuss ways to increase awareness of sentencing practices and the principles that guide courts in sentencing in such cases.

## 12.2 Raising public awareness – public awareness campaigns

### 12.2.1 What makes an effective public awareness campaign?

One means of enhancing community knowledge of penalties for assaults on public officers is through the use of public awareness campaigns.

The use of public awareness campaigns was supported by a number of stakeholders who made submissions. For example, the Transport Workers' Union suggested 'the introduction of tougher penalties combined with a robust public service campaign to enhance community awareness would assist in reduction of further instances of violent assaults within the transport industry'.<sup>1</sup>

The Queensland Teachers' Union believes that prevention is more effective than penalties. To this end it recommended that a 'targeted awareness campaign that puts focus on the role of different public sector workers (explicitly including teachers and principals) and their right to be free from violent attack and aggression in their workplaces' be funded;<sup>2</sup> further noting that 'it is imperative that a cohesive community campaign delivers a clear expectation of an active culture of zero tolerance in relation to violence directed at school staff', as well as the broader community.<sup>3</sup>

An entire literature exists in the public relations and marketing field that focuses on how to achieve behavioural change on a large scale. Public communication campaigns:

use the media, messaging, and an organised set of communication activities to generate specific outcomes in a large number of individuals and in a specified period of time. They are an attempt to shape behaviour toward desirable social outcomes. To maximise their chances of success, campaigns usually coordinate media efforts with a mix of other interpersonal and community-based communication channels.<sup>4</sup>

There are two categories of public communication campaign – the first aims to achieve behavioural change in individuals to address broader social problems, and the second, to raise public awareness about a particular issue to bring about policy change.<sup>5</sup>

Some of the most effective public awareness campaigns have accomplished far-reaching and long-lasting results through the combination of powerful creative concepts, legislative responses, enforcement, education programs, changes to physical environments, and community partnerships. Some campaigns have simply caught the attention of the public through relatable and emotive means, or even simply by using 'scare tactics'.

Public awareness campaigns have achieved many things:

1. **Road safety** – 'major reductions in road trauma and related public health improvements through sustained policies...[such as] a range of behavioural programs targeting drink driving, seatbelt usage and speeding'.<sup>6</sup>

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1 Submission 12 (Transport Workers' Union) 12.

2 Submission 20 (Queensland Teachers' Union) 7.

3 Ibid.

4 Julia Coffman, *Public Community Campaign Evaluation: An Environmental Scan of Challenges, Criticism, Practice and Opportunities* (Harvard Family Research Project, 2002) 2.

5 Ibid.

6 Public Health Association Australia, *Top 10 Public Health Successes Over the Last 20 Years*, Public Health Association Australia Monograph Series No. 2 (Public Health Association of Australia, 2018), 12.

2. **Public health** – Various public health campaigns have achieved behavioural change in relation to smoking,<sup>7</sup> immunisation and disease elimination, sun exposure, sustained low prevalence of HIV and AIDS and early bowel and breast cancer screening,<sup>8</sup> and increased use of pool fencing to prevent child drownings.
3. **Environmental issues** – Other campaigns have targeted issues such as air quality, littering and recycling.<sup>9</sup>

In many respects, the exercise of raising public awareness and achieving behavioural change through mass media is not dissimilar to advertising campaigns that aim to sell products to individuals, only the target behaviour is much more complex. Brad Hesse from the Communication and Informatics Research Branch at the National Cancer Institute (in the United States) says:

Communication campaigns are more successful if they are tailored to the context, values, language and resources available to local audiences. Priorities for which audiences to reach are usually set by an understanding of who is most vulnerable.<sup>10</sup>

Various approaches can be considered as part of a campaign, including the use of paid advertising using a mass media commercial, identifying a well-known spokesperson, using social media, interactive web advertising, posters and brochures,<sup>11</sup> community events and outdoor advertising such as transit and billboard displays.

The best outcomes are achieved when campaign objectives or intended results are clearly defined, target audiences are identified (including characteristics such as age, income, gender, ethnicity, education and language) and careful research has been done to develop the message – be it written, spoken or visual – for the intended audience, and available communication channels and message deliverers determined, usually to reach the highest number within the target population.

While mass media campaigns are cost-effective in reaching large populations, they can result in passive indifference in audiences if the receiver of the message does not identify its personal relevance. An advertisement can be easily dismissed if it does not relate directly to one's own situation or focuses on factors that the individual does not consider important.<sup>12</sup>

This has been borne out in research undertaken in WA, which focused on campaigns to prevent child drownings using focus groups to explore message comprehension, acceptability and attractiveness in public awareness advertising. The study was able to identify that while using celebrities to deliver key messages was seen as useful in attracting attention to the issue, the messages were thought to be most effective when delivered by parents and, to a lesser extent, when including a child in the video.<sup>13</sup>

### 12.2.2 What are the challenges of mass media campaigns in the context of assaults on public officers?

From a public awareness perspective, mass media campaigns may support improved awareness of the issue of occupational violence and the penalties that may be applied.

However, the Office of the Public Guardian (OPG) noted that some target groups are ill-suited for broader mass media messaging. For example, people with impaired decision-making capacity are not likely to, or are unable to, change their behaviour, and the OPG urged the Council to:

<sup>7</sup> Trish Cotter, Sarah Durkin and Megan Bayly, *Mass Media Public Education Campaigns: An Overview* (The Cancer Council Website, November 2019) <<https://www.tobaccoaustralia.org.au/chapter-14-social-marketing/14-1-social-marketing-and-public-education-campaig>>.

<sup>8</sup> Public Health Association Australia (n 6).

<sup>9</sup> Tom Evison and Adam D Read, 'Local Authority Recycling and Waste – Awareness Publicity/Promotion' 32(3–4) *Resources, Conservation and Recycling; Zero Waste Scotland, 7 of the Best Litter Prevention Campaigns from Around the World*, 2020 (Zero Waste Scotland Limited Website).

<sup>10</sup> Lacey Mayer, *Are Public Awareness Campaigns Effective?* (Cure: Cancer Updates, Research and Education Website, 10 March 2008) <<https://www.curetoday.com/publications/cure/2008/spring2008/are-public-awareness-campaigns-effective>>.

<sup>11</sup> Ibid.

<sup>12</sup> Michael S LaTour, and Herbert J Rotfeld, 'There are threats and (maybe) fear-caused arousal: Theory and confusions of appeals to fear and fear arousal itself' (1997) 26(3) *Journal of Advertising Research*, 45.

<sup>13</sup> Mel Denehy et al, 'This much water: A qualitative study using behavioural theory to develop a community service video to prevent child drowning in Western Australia' (2017) 7(7), *BMJ Open*.

examine what value community education on the penalties for this type of offending will have as a preventative measure for adults with impaired decision-making capacity, and consider appropriate alternatives for this cohort.<sup>14</sup>

A public awareness campaign for any important social or health issue must consider the needs of all members of the community. This has been most recently and importantly highlighted in the context of the needs of non-English-speaking communities in Victoria who may have missed public health information regarding the COVID-19 pandemic, thereby potentially undermining the important health gains made in that state in the early stages of this public health emergency.<sup>15</sup>

The fact that many offences of assault on public officers are committed by those who are drug and/or alcohol affected, have significant mental health disorder, and who may be in a heightened emotional state means that it may be difficult for these campaigns to be effective in bringing about behavioural change. They do, however, send an important message to the community that assaults on people who are simply doing their job should not be tolerated – particularly those who may be at heightened risk of assault due to the nature of the role.

The extension of public awareness campaigns to internal messages – those aimed at public officers working in organisations including law enforcement, healthcare settings and schools – may also be important to modify attitudes or behaviour relating to either a tolerance for workplace violence or the reluctance to report incidents. Comments in a submission from Queensland Health are particularly relevant here:

Community awareness regarding the enforcement of penalties for assault on public officers is essential. Clear and concise messaging around what to expect and ‘actual’ sentencing outcomes is critical in restoring the faith in the community, particularly amongst healthcare workers who have historically deemed sentencing outcomes as unjust.<sup>16</sup>

The Council understands that discussions have been initiated about the need for a whole-of-government approach to workplace violence, which provides a potential opportunity to address such issues.

While the United Workers Union (UWU) in its submission supported investment in communicating the impact of assaults on workers as a means of raising public awareness, it cautioned there is a need to continue to trust in the professionalism of workers to manage difficult interactions with clients. The UWU raised concerns that adopting a ‘zero tolerance’ stance can sometimes lead to escalation, and that public messaging requires a more considered, nuanced and research-based approach:

As a strategy and intervention, communicating zero tolerance does convey the message that violence is intolerable but in some cases this places a heavy burden on professionals interacting with the people they aim to assist; removing a person’s ability to express irritation can cause a situation to escalate. Instead, UWU members have identified the need for more sophisticated public communication campaigns that will foster greater understanding between professionals like paramedics, health workers and teacher aides, the people they work for and the wider public. Developing research-based public health and workplace safety messaging and campaigns that do not diminish the professional knowledge of paramedics, health workers and teacher aides, but are instead built on their expertise and professional needs will ensure communication, as an intervention, serves frontline staff and their clients and students more effectively.<sup>17</sup>

The importance of a consistent understanding, description or definition of what workplace assaults include that carries across different occupational groups – using common language – may assist in strengthening integrated messages that encourage public officers and other workers to report assaults across all sectors and that reassure officers of local management and broader departmental support. This is articulated in a report by the Queensland Health Taskforce on Occupational Violence Prevention: ‘An endorsed and commonly shared definition enables the quantification of the issue to be better understood with less likelihood of differing interpretations.’<sup>18</sup>

Knowing what language or messaging will be effective in a public awareness campaign – be it primary or sub-themed messaging – or how it will be received by the target audience must begin with evaluating the campaign before it begins, as well as during and after it has been run.

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<sup>14</sup> Submission 24 (Office of the Public Guardian) 4.

<sup>15</sup> Alexandra Grey, ‘Australia’s multilingual communities are missing out on vital coronavirus information’, *The Conversation* (online, 29 June 2020) <https://www.abc.net.au/news/2020-06-29/coronavirus-multilingual-australia-missing-out-covid-19-info/12403510>.

<sup>16</sup> Submission 9a (Queensland Occupational Violence Strategy Unit), Appendix 1 (confidential, reproduced with permission).

<sup>17</sup> Submission 11 (United Workers Union) 6.

<sup>18</sup> Queensland Health, *Occupational Violence Prevention in Queensland Health’s Hospital and Health Services: Taskforce Report*, (Queensland Health 2016) 31.

Evaluation of a public awareness campaign is a significant challenge. The literature documents the difficulty of measuring the impact of a public communication campaign due to their complexity, the unpredictable nature of their interventions, the context and other factors that can confound outcomes, and the difficulty in finding control or comparison groups.<sup>19</sup>

To this end, a public awareness campaign could help in delivering an effective mass media campaign that enhances community knowledge and understanding of the penalties for assaults on workers, and on particular classes of worker. Such a campaign should incorporate the use of formative consumer research and evaluation, and the interrogation of available data to develop and test the campaign themes, messages and communication elements, and assess the need for, and feasibility of a campaign,<sup>20</sup> before creative concepts are pre-tested and settled.

Specific focus might be given to understanding the target audience segments, attitudes towards assaults of workers, causal factors contributing to the incidence of assault in different environments and with different occupational groups, actual behaviour, and the concurrent availability of services and products, availability of community-based programs, and policies that support behavioural change.<sup>21</sup>

Evaluating an awareness campaign that utilises mass media as a dominant tactic during its active phase may enhance community knowledge and the understanding of the penalties for workplace assault through providing evidence as to whether the campaign is achieving its objectives or if the mass media element needs to be built on or modified.

This might include reach and retention surveys – advertisement recall, understanding of the message, personal relevance, cultural appropriateness, whether people are talking about assaults on public officers and the penalties for the offending behaviour, whether the advertisements have changed individual attitudes or behaviour intent – and a more traditional assessment of exposure through Target Audience Rating Point (the percentage of a specific target audience viewing a particular program at the time the advertisement is shown) and/or Gross Rating Points (the sum of individual Target Audience Rating Points for a TV campaign). Gross Rating Points indicate the total weight of a schedule or gross audience (including duplication), impressions, and hits.

Finally, a strong investment in evaluating the impact of a campaign – whether it has reached its objectives – is important in assessing the level of community awareness that has been achieved, to understand if increased awareness has resulted in behavioural change, and the nature of the behavioural change observed. Such evaluative research focused on campaign outcomes can also help inform future campaign designs.

### 12.2.3 Public awareness campaigns on workplace violence in Queensland

Over recent years, a number of public awareness campaigns have aimed to raise awareness of the issue of assaults of public officers, including campaigns that have specifically focused on making it clear that strong penalties apply to this behaviour.

As part of a broader campaign to improve pay and conditions for police, the Queensland Police Union issued a series of advertising campaigns in 2007 and 2010, one of which depicted the need for higher penalties for people who assault police.<sup>22</sup>

When the maximum penalty for aggravated serious assault of public officers was raised from 7 to 14 years' imprisonment as part of the Safe Night Out Strategy,<sup>23</sup> this was supported by an awareness campaign highlighting the new maximum penalty. The campaign featured images of some of the typical injuries received by nurses, doctors and paramedics as a result of assault, see below.

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<sup>19</sup> Julia Coffman, *Public Community Campaign Evaluation: An Environmental Scan of Challenges, Criticism, Practice and Opportunities* (Harvard Family Research Project, 2002) 2.

<sup>20</sup> Anne Grunseit et al, *Mass media campaigns addressing physical activity, nutrition and obesity in Australia: An updated narrative review 1996–2015* (The Australian Prevention Partnership Centre, 2016).

<sup>21</sup> Melanie A Wakefield, Barbara Loken and Robert C Hornik, 'Use of mass media campaigns to change health behaviour', 376(9748), 2010 *Lancet*, 1261.

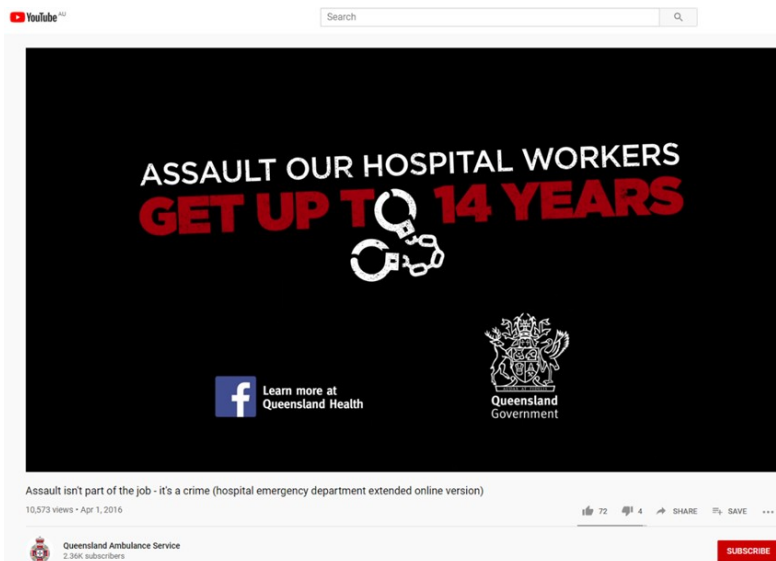
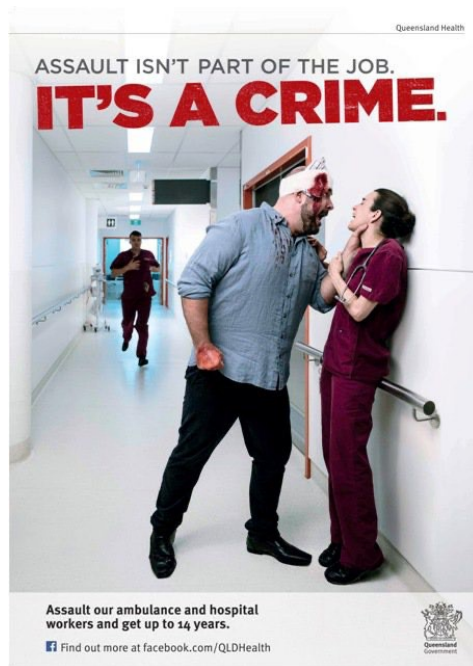
<sup>22</sup> ABC News, 'Police Union Steps Up TV Ad Campaign' (online, 29 July 2007) <<https://www.abc.net.au/news/2007-07-29/police-union-steps-up-tv-ad-campaign/2516400>>; 'Queensland Police Union Rejects 'Insulting' 2.5% Pay Rise and Start Advertising Campaign for Better Pay', *The Sunday Mail* (online, 11 July 2010) <<https://www.couriermail.com.au/news/queensland-police-union-rejects-insulting-25-pay-rise/news-story/ea734ce478f552b5aeef897698398fcd>>.

<sup>23</sup> Queensland Government, *Safe Night Out Strategy* (June 2014).



A Safe Night Out at Work

Since then, an advertising campaign was designed by Queensland Health in 2016, which aimed to prevent assaults on paramedics and frontline emergency workers with a mix of advertising on social and digital media, television, on billboards and on bus stops.<sup>24</sup> This campaign included reference to the 14-year maximum penalty for aggravated forms of serious assault. The image used as part of the social media campaign is below, accompanied by an associated YouTube clip.



<sup>24</sup> Queensland Health, 'To Violence, We Say No' (Web Page) <<https://www.health.qld.gov.au/news-events/news/160401-occ-vi> accessed 18 March 2020>.

Following a state-wide Paramedic Safety Taskforce Report delivered in 2016, a campaign titled 'Respect our Staff' was launched by the Queensland Government in 2019 and included interviews with paramedics speaking about their experiences. The campaign used the slogan 'Violence in the workplace affects much more than me', highlighting that paramedics are also parents, partners and friends with their own lives, interests and contributions to the community.<sup>25</sup>

Queensland Health launched a campaign to raise awareness about the problem of violence against nurses, with a short video depicting the impact of violence on staff and patients (see the online ABC article below, with links to the video).



The image is a screenshot of a news article from ABC News. The top navigation bar includes the ABC NEWS logo, a 'SET LOCATION' button, and a menu with categories: Just In, Politics, World, Business, Analysis, Sport, Science, Health, Arts, Fact Check, and Other. The main image shows a hospital ward with several healthcare workers in scrubs attending to a patient lying in a bed. Below the image are social media sharing options for Print, Email, Facebook, Twitter, and More. The article title is 'Anti nurse violence campaign', posted on 11 Jun 2019 at 10:18am. The text below the title reads: 'The Queensland Department of Health has run a campaign to draw attention to the problem of violence against nurses.' To the right, there is a 'TOP STORIES' section with three items: 'Australia to ban travellers from Italy from tonight', 'Court orders record payment for historic child abuse crimes by Christian Brothers', and 'Coronavirus update: UK health minister tests positive as troops sent into NY exclusion zone'.

Also in 2019, the Queensland Government launched a public awareness campaign in conjunction with a raft of new measures to improve bus safety, with the message of zero tolerance for violence against bus drivers. The campaign involved a series of television advertisements depicting real-life violent scenarios faced by drivers. Other companion measures included a 12-month trial of an increased presence of officers on particular services, and more driver safety barriers and anti-shatter windows.<sup>26</sup>

<sup>25</sup> Jude Skatssoon, 'Queensland Targets Violence Against Paramedics', Government News (online, 25 April 2019) <<https://www.governmentnews.com.au/qld-targets-violence-against-ambulance-workers/>>.

<sup>26</sup> Mark Bailey, 'Palaszczuk Government Strengthens Bus Safety Commitment' (Media Statement, 30 September 2019).

When was the last time you were assaulted at work? Spat on? Abused? Had things thrown at you? These are just some of the acts of physical and verbal aggression directed towards bus drivers who should be able to do their job without the threat of violence.

Bus drivers are people, just like you. They deserve to feel safe at work. They deserve our respect.

**Avoiding the fare**

Fare evasion costs the Queensland Government \$25 million a year in lost revenue. It is also one of the key catalysts for acts of aggression towards bus drivers.

[Watch TV ad >](#)

**Distracting the driver**

Distracting the bus driver when they are driving the bus is dangerous for everyone on board. Show drivers respect so that everyone gets home safely.

[Watch TV ad >](#)

**Blaming the driver**

Sometimes the unexpected happens – roadwork or accidents can lead to services running late. Bus drivers shouldn't cop abuse when the circumstances are beyond their control.

[Watch TV ad >](#)

The Department of Transport and Main Roads has indicated that preliminary evaluation of the 'See it from their side' campaign has shown it successfully delivered on its aim to set standards for acceptable behaviour on public transport while instilling and growing a culture of safe and accessible public transport services.<sup>27</sup> It is unknown whether the other campaigns have been evaluated, so it is unclear whether these efforts have resulted in a reduction of assaults against specific types of public officer.

What stands out about these mass-reach campaigns is that they have been sector-specific. While the theme of workplace violence has been clear, consistent messaging has been absent, reflecting a lack of coordinated effort across different occupational groups to purposely address assaults on public officers more broadly.

The Council supports continued efforts across government to raise awareness of assaults and the penalties that apply to relevant offences that can be charged. The Council's recommendations are presented below.

### 12.3 Role of the media

A number of studies have found the primary way the general public is informed about sentencing is via the media.<sup>28</sup>

Sentencing commentators have observed that in the sentencing of offenders: 'Courts often declare that they intend to "send a message" to the community through the sentencing process and that the behaviour in question "will not be tolerated"'.<sup>29</sup> However, the achievement of this objective 'assumes that the sentences, or reports of them in the media, will be known and understood'.<sup>30</sup>

<sup>27</sup> Submission 3 (Department of Transport and Main Roads). Confidential submission quoted with permission.

<sup>28</sup> Karen Gelb, *More Myths and Misconceptions, Research Paper* (Sentencing Advisory Council (Victoria), 2008) 6.

<sup>29</sup> Arie Freiberg, *Sentencing: State and Federal Law in Victoria* (Lawbook Company, 3rd ed, 2014) 254.

<sup>30</sup> Ibid.

As discussed in section 6.5.1 of Chapter 6, there is a long line of Queensland Court of Appeal authority that recognises deterrence and denunciation as primary sentencing considerations where assaults on police and other public officers are concerned. These sentencing purposes bring into sharp focus the importance of the community being aware of what sentences are imposed in such cases.

Some stakeholders noted the media's important influencing role when it comes to community understanding of sentencing. The Queensland Law Society commented:

The significant factor detracting from the community's understanding of penalties and sentencing for assaults on public officers (and all sentencing proceedings) is the media and sensationalised journalism. The media has a significant impact on community perceptions of the effectiveness of the criminal justice system and, in particular, sentencing. The media often reports on stories that elicit negative perceptions of the criminal justice system for the sake of entertainment. Often the community are not given all of the information that was before the judge or magistrate sentencing an offender. This in turn reduces the community's faith in the system. The reporting needs to provide an accurate account of the entire matter.<sup>31</sup>

The Department of Agriculture and Fisheries also noted the disconnect that can occur when the maximum penalty available for an incident is reported, instead of the more likely sentencing outcome:

The Department submits that the community's understanding is significantly affected by the manner of reporting of offending and the penalties imposed on offenders. In particular, in the immediate aftermath of an incident often the maximum penalty is reported. The community therefore forms a false picture of the penalties that are actually being imposed. The Department submits that clear communication of the particular penalties imposed and the basis on which they are imposed would enhance community understanding and the deterrent effect of significant penalties.<sup>32</sup>

The Bar Association of Queensland (BAQ) considered that 'there is broad misunderstanding of sentencing practices, principles and realities in the broader community'.<sup>33</sup> It identified 'ill-informed and often inflammatory reporting of sentencing proceedings' as 'the primary contributor to much of the community's perception and understanding of sentencing', with a focus on proceedings of 'a more emotive nature'.<sup>34</sup> Further specifics of the issue were as follows:

Reporting usually contains very few details of the offences, even less detail about the offender and little analysis of why a particular sentence was imposed (including for example, substantial periods of pre-sentence custody), choosing to focus, instead, on matters which would tend to inflame public anger and resentment. Such matters often include personal attacks on judicial officers perceived by those in the media to have a pattern or history of "weak" sentencing. These judicial officers are also prevented by virtue of the nature of their jobs from participating in the public 'debate' that ensues.

This is then, commonly, bolstered by politicians making public remarks about these particular sentences, often quite apparently without the benefit of any knowledge of the details of a particular case.<sup>35</sup>

The BAQ suggested that, short of regularly broadcasting proceedings 'for matters other than those of the greatest interest to the general public ... community understanding can only be enhanced through increased education and engagement opportunities such as those provided by Law Week community presentations'.<sup>36</sup>

It noted that 'the public's understanding of sentencing practices and realities' is 'vital' to general deterrence as a purpose of sentencing in section 9 of the *Penalties and Sentences Act 1992* (Qld).<sup>37</sup> General deterrence, as a concept, requires public knowledge of the sentences imposed on offenders; if the public are not aware that offenders are actually imprisoned or imprisoned for longer periods, then there can be no real deterrent effect from those sentences or increases in them.<sup>38</sup>

In recognition of the important role that journalists play in helping the Queensland community understand sentencing, the Council developed a *Court Reporting Guide for Journalists* in 2019 in consultation with print and radio journalists, media advisors from the Supreme and District Courts and the Queensland Law Society.<sup>39</sup> The

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<sup>31</sup> Submission 30 (Queensland Law Society) 18.

<sup>32</sup> Submission 7 (Department of Agriculture and Fisheries) 9.

<sup>33</sup> Submission 27 (Bar Association of Queensland) 11.

<sup>34</sup> Ibid 12.

<sup>35</sup> Ibid.

<sup>36</sup> Ibid.

<sup>37</sup> Ibid.

<sup>38</sup> Ibid, citing Davies GL and Raymond KM, 'Do Current Sentencing Practices Work?' (2000) 24 *Criminal Law Journal* 236.

<sup>39</sup> Queensland Sentencing Advisory Council, *Court Reporting Guide for Journalists* (Queensland Sentencing Advisory Council, 2019).



guide, which is available on the Council's website, provides a simple, plain English overview of the courts and court processes, as well as commonly used terms, to assist journalists to cover court proceedings and report sentencing outcomes accurately.

However, with the limited time and coverage the media can devote to an issue, even with a commitment to report on such cases, journalists are unlikely to be able to provide a comprehensive understanding of what the sentencing judge took into account to determine an appropriate sentence.

A complex case may only have some elements reported on, or, in some instances, legislative restrictions mean key sentencing information that influenced the sentence cannot be reported.

The Victorian Sentencing Advisory Council found media reporting is selective, often choosing stories with the aim of entertaining rather than informing, focusing on criminal cases that are unusual, dramatic and violent.<sup>40</sup> This means the public may be given only a partial picture, and at times a distorted view, of what really took place, which may contribute to community dissatisfaction with sentencing outcomes. The issue of assault of public officers has been regularly reported on over the last decade, with a number of calls for increases in penalties having been made over that time by union organisations and employee groups, as well as reports of rising numbers.

## 12.4 Role of the Council

The Council's statutory functions under section 199 of the *Penalties and Sentences Act 1992* (PSA) include:

1. to give information to the community to enhance knowledge and understanding of matters relating to sentencing;
2. to publish information about sentencing;
3. to research matters about sentencing and publish the outcomes of the research; and
4. to obtain the community's views on sentencing.

Information published as part of this review, together with consultation activities, is one way the Council is contributing to community understanding about the context in which assaults on public officers occur, the current offence and penalty framework, as well as sentencing practices and what factors impact on sentencing.

The Council's role in informing community views through its research and communication functions was recognised by the Queensland Productivity Commission in its 2019 report into imprisonment and recidivism, which also recommended that this role should be expanded.<sup>41</sup>

The Queensland Human Rights Commission,<sup>42</sup> Queensland Law Society<sup>43</sup> (QLS) and the Department of Child Safety, Youth and Women<sup>44</sup> were among those stakeholders who indicated their support for this work continuing. The QLS indicated its support, in particular, for community education, submitting:

This is being achieved through events and programs such as Judge for Yourself conducted by the Sentencing Advisory Council. Further, surveys of the true opinion of the community to a particular sentence after having been provided with all of the information are likely to confirm satisfaction in the sentence provided. This in turn would increase the public's perception of the adequacy of sentencing.<sup>45</sup>

## 12.5 Overcoming barriers to community understanding

Chapter 1 identifies that an existing barrier to the Council's ability to accurately report on sentencing outcomes is: the lack of consistently and reliably recorded information about victims in the Courts data; and, where the Queensland Police Service data may record a victim's occupation, the inability to determine the context in which an alleged assault occurred. For example, the victim's occupation might be recorded as 'paramedic', but without specifying whether the victim was assaulted in the course of their work. The context in which an assault is alleged to have occurred might only be obtained by reviewing the relevant court brief (known as a 'QP9') or case file.

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<sup>40</sup> Gelb (n 28) 6.

<sup>41</sup> Queensland Productivity Commission, *Inquiry into Imprisonment and Recidivism* (Final Report, 2019) I, with reference to Recommendation 13.

<sup>42</sup> Submission 18 (Queensland Human Rights Commission) 15 [56].

<sup>43</sup> Submission 30 (Queensland Law Society) 18.

<sup>44</sup> Submission 5 (Department of Child Safety, Youth and Women) 5.

<sup>45</sup> Submission 30 (Queensland Law Society) 18.

These issues will continue to make it difficult following the adoption of any reforms recommended by the Council to identify assaults that have occurred outside of the particular contexts captured within the reformed section 340, and those that might be captured under the proposed new aggravating factors to apply under section 9 of the PSA.

The NSW Legislative Assembly Committee on Law and Safety in its 2017 report on violence against emergency services personnel made a similar observation as this applied to its current legislative scheme, finding:

access to information about sentencing patterns for violence against emergency services personnel is limited. While sentencing data is available for the specific offences against particular victims ... there is a lack of sentencing data where a person who has been violent towards emergency services personnel has been charged with a general offence under *the Crimes Act 1900*. This is because any sentencing data that is published about such offences is indistinguishable from the data that relates to offences against general members of the public.

For example, if a person assaults a police officer and is charged and sentenced under one of the specific 'assault police' provisions of the *Crimes Act 1900*, it will be clear from the statistics that are published that the victim was a police officer. In contrast, if a person assaults a paramedic and is charged and sentenced under one of the general assault provisions of the *Crimes Act 1900*, there will be no way of knowing from the published statistics whether it was a paramedic assault or some other type of assault.

In short, the fact that the victim is emergency services personnel is not recorded for statistical purposes. While the victim's status as an emergency services worker is taken into account as an aggravating factor in sentencing ... aggravating factors are not recorded.<sup>46</sup>

The Parliamentary Committee noted that the fact that most cases of violence against emergency services personnel were heard in the Local Court (the equivalent to the Queensland Magistrates Courts) also limited access to this information given that 'sentencing remarks in the Local Court and District Court are not routinely transcribed or published'.<sup>47</sup> This reflects the position in Queensland. The Committee recommended:

That the NSW Government consider changes to require the NSW Police Force and the Courts to record where the victim of an offence is an emergency services worker, so that all sentencing statistics that relate to violence against emergency services personnel are clearly identifiable.<sup>48</sup>

It further recommended that, 'the NSW Government consider additional funding so that a greater number of judgments of the Local and District Courts of NSW can be transcribed and published on the NSW Caselaw website'.<sup>49</sup> The Committee viewed the broader availability of this information as important to promote community confidence that those who offend against emergency services personnel are being dealt with appropriately.<sup>50</sup>

Citing 2007 reforms to enable the identification of offences committed in a domestic violence context, similar to reforms introduced in Queensland, it suggested '[a] similar approach may be able to be taken to identify offences committed against emergency services personnel', which could be built into the existing Judicial Information Research System database.<sup>51</sup>

In its response to the Committee's report, the NSW Government noted it would refer the issue of the recording of victim status to the NSW Police Force to determine the most appropriate method of recording this additional information in its police database.<sup>52</sup>

## 12.6 Conclusion and Council's view

The above discussion has identified a number of potential areas of focus to improve community knowledge and understanding of the penalties that apply to offences of assault committed against public officers and sentencing practices.

Improving the data collected about victims would enhance the Council's ability to report on relevant sentencing trends, given some assaults are likely to be charged under one of the general offence provisions rather than, for example, the offence of serious assault or other offences readily identified as involving a public officer victim. The issue of improved data collection was raised in several submissions as a means of increasing public visibility of the

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<sup>46</sup> NSW, Legislative Assembly Committee on Law and Safety, *Violence Against Emergency Services Personnel* (Report 1/56, 2017) 65 [4.27]–[4.20].

<sup>47</sup> *Ibid* 65–66 [4.30].

<sup>48</sup> *Ibid* 68, Recommendation 42.

<sup>49</sup> *Ibid*, Recommendation 43.

<sup>50</sup> *Ibid* [4.38].

<sup>51</sup> *Ibid* [4.39].

<sup>52</sup> NSW, *NSW Government Response to Recommendations from the Legislative Assembly's Inquiry into Violence Against Emergency Services Personnel* (2018) 12.

issue. The Council acknowledges that system limitations and costs associated with any system enhancements need to be carefully explored to determine the best way of overcoming these data challenges.

The Council suggests any future investigation of how to record information on victim status is best led by the Queensland Government Statistician's Office, in consultation with relevant agencies which hold this data, to ensure that the reforms recommended in this report can be appropriately monitored and tracked without the need to resort to a resource-intensive manual review of court briefs and files.

The Council notes that this type of data capture, which allows these organisations to track the court outcomes of assaults on their staff, is already occurring in some agencies, such as Queensland Corrective Services and Queensland Rail, which have existing close working relationships with specialist units established within the QPS.

As acknowledged in our Issues Paper, there are also a range of strategies that could be implemented to better inform the community about sentencing for these offences at relatively little cost. This might include the continued provision of information of the kind the Council routinely produces, such as sentencing fact sheets, the Council's *Queensland Sentencing Guide* and statistical publications, as well as engagement with the media, tertiary and secondary education institutions, and organisations representing professions.

The Council recognises, in particular, the importance of continuing to focus on engagement with the media around sentencing, given it continues to be a key source of information for the public on sentencing. The Victorian Chief Judge in recent years has spoken about the importance of using existing media channels to communicate the work of the courts, given much of the public criticism of the courts concerns criminal law and sentencing.<sup>53</sup>

Members of the Supreme Court of Queensland have made comment on the importance of supporting informed media commentary by making accurate transcripts available to the public 'as soon as is reasonably possible';<sup>54</sup> also allowing hyperlinks to be included in media reports to their decisions.<sup>55</sup>

The Council agrees with comments made that making sentencing decisions more readily available is an important and practical strategy that can be adopted by courts to promote more informed public and media commentary consistent with the principle of open justice.<sup>56</sup>

The Supreme Court Library of Queensland has undertaken significant work to make more judgments and sentencing remarks publicly available on its website.

The Council continues to support this work being led by the Supreme Court Library and Court Services Queensland in partnership with the judiciary to make more sentencing remarks publicly available, including those delivered in the District Court. While cases sentenced in the District Court do not represent the majority of assault cases involving public officers, they are important to illustrate at an individual case level how these offences are dealt with by the courts and guiding principles with a view to improving community knowledge and understanding.

This year, the Council also launched a new '*Case in Focus*' series, which features appellate court decisions of particular interest or relevance. This series aims to provide accessible summaries of appeal decisions to promote community understanding of how sentencing principles are applied in a broad range of cases, including those involving charges of serious assault.

Both the Council and criminal law practitioners can also continue to support the process of enhancing community understanding in Queensland by providing the media and the public with relevant information about the principles and factors that guide sentencing, including in these cases, and explaining the range of matters to which courts must have regard in setting an appropriate sentence. In this way, public understanding of the complex range of matters that inform sentencing and the application of the law can be enhanced.

Finally, as discussed earlier in this chapter, submissions and consultation highlighted different areas of possible education, public awareness, and public officer support and empowerment that could form the basis of coordinated public-sector-wide mass media messaging with sub-themed messaging.

The Council acknowledges that significant work has already been done by a number of agencies to raise public awareness of the problem of assault on frontline workers, and to highlight relevant maximum penalties that apply, and is strongly supportive of this work continuing.

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<sup>53</sup> Karin Derkley, 'Going public in the court's defence', *Law Institute Journal* (online, 8 March 2019) <[https://www.liv.asn.au/Staying-Informed/LIJ/LIJ/March-2019-\(1\)/Going-public-in-Court%E2%80%99s-defence](https://www.liv.asn.au/Staying-Informed/LIJ/LIJ/March-2019-(1)/Going-public-in-Court%E2%80%99s-defence)>.

<sup>54</sup> The Hon Justice Peter Applegarth, 'Coverage and Criticism of Courts' (Address to the Judicial Conference of Australia Colloquium, Darwin, 8 June 2019) 27–8.

<sup>55</sup> Ibid 7.

<sup>56</sup> Ibid.

Key themes worthy of exploration include:

- Emphasising that assault is a crime, and there are penalties for this behaviour.
- That violence hurts everyone – the victim, the perpetrator, those around witnessing, family, friends.
- That ‘this is assault’, featuring everything from pushing, spitting, throwing bodily fluids, punching, threatening.
- The theme of ‘respect’, for the person doing their job, or the help they provide the community.
- The theme of ‘choice’ – the worker has made a choice to help the community, you can make a choice to treat them with respect when they are doing their job.

Consultation with stakeholders who regularly work with people with impaired decision-making capacity, low levels of literacy, and from a range of cultural background in the development of these resources would be beneficial to ensure messages are appropriately targeted.

An opportunity also exists for the specific identification of public officer audiences and targeted messages that help modify attitudes or behaviours relating to either the tolerance of ‘some’ workplace violence or the reluctance to report the offending behaviour – messages that encourage public officers to report assault and show that support is available for those who experience it.

#### **Recommendation 13–1: Improving reporting capabilities on sentencing outcomes**

The Queensland Government Statistician’s Office should explore ways for information to be captured that identify if the victim of an assault, or an assault-related offence, is a public officer assaulted while at work, or due to their status as a public officer, in a way that can be easily reported on to enable the future reporting of charges, offences and sentencing outcomes in a de-identified form. The victim’s occupation should be captured to enable the reporting of trends over time. This work should be undertaken in consultation with the Queensland Police Service, Court Services Queensland, WorkCover Queensland, and other public sector agencies that hold victim-specific data.

#### **Recommendation 13–2: Enhancing access to sentencing remarks**

Court Services Queensland and the Supreme Court Library should continue to work with the judiciary on strategies to make more District Court sentencing remarks publicly available.

#### **Recommendation 13–3: Community awareness campaigns**

Queensland public sector agencies should continue to run general community awareness campaigns that include information about the maximum penalties that apply to assaults on public officers.

Priority should be given to targeting campaigns at protecting officers most at risk of such assaults – including ambulance officers, hospital and other health workers and police.

These campaigns and relevant messaging should be shared with staff through internal communication channels, such as staff intranets, to communicate that assaults are never just ‘part of the job’ in order to encourage the reporting of assaults by staff to their managers and, where appropriate, to police. They might also be supported by resources identifying the most common penalties applied for offences sentenced under section 340 of the *Criminal Code*, and summary offence equivalents.

### **12.6.1 Future directions: exploring the drivers of Aboriginal and Torres Strait Islander overrepresentation**

As discussed in Chapter 3 of this report, the Council received an expert report in July 2020, authored by Associate Professor Chelsea Bond, Dr David Singh and Helena Kajlich from the School of Social Science at The University of Queensland, presenting an interpretation of the drivers of overrepresentation of Aboriginal and Torres Strait Islander peoples sentenced for offences of assault involving public officer victims, applying Critical Race Theory.

Bond, Singh and Kajlich suggest ‘A number of quantitative and qualitative initiatives may be undertaken to better understand the nature of the local encounter between Aboriginal and Torres Strait Islander people and public officers’, including:

- Further interrogating the statistical account illustrating the over-representation of Aboriginal and Torres Strait Islander people on charges of assault against public officers and examining the intersection of other factors such as associated charges, location of offence, types of public officers in addition to the ‘perpetrator factors’ as identified by [Christine] Bond et al (2020);
- Commissioning further research that examine narrative accounts from Aboriginal and Torres Strait Islander people who have had encounters with public officers ... [to] furnish a greater understanding of the nature and outcome of contact between community [members] and public officer[s] that juridical accounts leave little room for; Examining more specifically Aboriginal and Torres Strait Islander women’s experiences of

encountering public officers. Presently little is known about the intersectional nature of this statistical overrepresentation, so a more gender focused analysis is clearly called for; Investigating the role of training in de-escalating or exacerbating fractious encounters with Aboriginal and Torres Strait Islander people; Reviewing the effectiveness of various campaigns and measures designed to prevent the assault of public officers; Examining remedial responses sought by Aboriginal and Torres Strait Islander peoples who have been victims of serious assaults by public officers, such as formal complaint processes, legal and therapeutic measures.

While the Council's focus has been on consideration of the current offence, penalty and sentencing framework that guides sentencing for assaults on public officers, it supports future work being undertaken that might provide a richer understanding of the drivers of overrepresentation and practical strategies to address contributing factors.