

Queensland Health Submission to the Queensland Sentencing Advisory Council's review into penalties for assaults on public officers

Outlined below is the coordinated response from Queensland Health in relation to the questions raised in QSAC's Issues Paper.

4. Does the current sentencing process in Queensland adequately meet the needs of public officer victims?

Themes raised throughout the expression of interest process heavily indicated that there was little faith in the sentencing process to adequately satisfy that of staff who have been the victim of an assault. Lengthy processes, little understanding of the court / sentencing process may also be attributed. For example, until the Issues Paper was released, it was not widely known that whilst most cases where public officers have been assaulted are heard in the magistrates court, the maximum sentence that can be imposed by the Magistrate, is three years imprisonment. This contradicts the statements and media campaigns that state assaults on frontline workers can receive a maximum 14-years imprisonment.

Additionally, little knowledge of the process, including interagency roles and responsibilities contribute to the disappointment and undervalued feelings of healthcare workers who have been the victim of an assault. This is clearly articulated in staff stories outlined in the attached appendix.

Queensland Health acknowledge that significant, complex barriers to a public officer making a complaint of serious assault exist. Barriers expressed by staff include:

- Fear of not wanting to "get the patient in trouble";
- Fear of the prolonged court process;
- Embarrassment at the assumption that they may have done something to contribute to the incident;
- Embarrassment that they have become the "victim";
- Contempt for the process and likely outcome;
- Anxiety of having to attend a police station to make a statement, attend court, be cross-examined, etc;
- History of QPS not taking the complaint seriously if the person has a mental health condition;
- The perpetrator being "let off" because they are intoxicated, and therefore unaware of their behaviour;
- The patient being deemed "mental health" and therefore the case being transferred to the mental health court – with no real outcome or restitution;
- Fear and embarrassment of being told that they "aren't really" a frontline worker, because they are "just" security officers.

In 2015, media reports of occupational violence on frontline workers escalated after a Gold Coast Paramedic was seriously assaulted and sustained head and facial injuries. The media reported the assailant was well known to QPS and had an extensive history of assault, serious assault, and other serious assault.

After an extensive court process, the Paramedic and other frontline workers were collectively disheartened to hear that the assailant received an 18-month jail sentence, only to serve six.

Queensland Health acknowledges that every victim requires and deserves individualised support and closure. Restorative justice is based on the principle that justice is best

served when there is a balanced response to the needs of those harmed, those who caused harm, and the community. Whilst the concept is still relatively new, restorative practice in mental health aims to incorporate a proactive and flexible approach to considering an individual's capacity and motivations to participate, in addition to the needs and expectations of person harmed (whether that be another mental health consumer, staff member, family or community member).

7. Should assaults on people employed in other occupations in a private capacity, working in particular environments (e.g. hospitals, schools or aged care facilities) or providing specific types of services (e.g. health care providers or teachers) also be recognised as aggravated forms of assault?

Queensland Health does not condone violence in any form, across any environment. Particularly disturbing, is when the violence is directed at the very people in the community trying to help. The Office for Prisoner Health and Wellbeing noted that healthcare workers deliver services across 14 correctional facilities within Queensland. These healthcare workers provide essential health services, in extremely challenging environments, to some of the state's most vulnerable and dangerous people. Of these 14 correctional facilities, two are currently privately operated. Staff at these two facilities are currently privately employed, however both are scheduled to transition to public operation by July 2021.

Whilst Queensland Health does not wish to take a position on penalties or sentences available to the courts, it is maintained that healthcare workers, in both publicly and privately-operated correctional centres be treated equally in the eyes of the law.

14. (d) Are the 2012 and 2014 reforms to section 340 (introduction of aggravating circumstances which carry a higher 14-year maximum penalty) achieving their objectives?

The Queensland Occupational Violence Strategy Unit (QOVSU) is a statewide unit that supports all Hospital and Health Services across Queensland Health in the prevention and management of occupational violence. QOVSU regularly travel across Queensland to meet with staff on the frontline who share their stories of being the victim of an assault in the workplace. Very few of these stories have resulted in custodial sentencing. Often, staff state they feel "let down" by the courts, if no jail time is served, or if a suspended sentence is handed down. With the introduction of the *Human Rights Act, QLD (2019)*, staff have expressed fear that the rights of patients will be viewed as superior to those of staff.

17. How can community knowledge and understanding about penalties and sentencing for assaults on public officers be enhanced?

Historically, the wider community have been vocal about court outcomes and sentencing of cases portrayed in the media.

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. Driven by QOVSU, Queensland Health have commenced initial conversations around the need for a whole-of-government approach to violence.