

Submission to

Queensland Sentencing Advisory Council

Penalties for assaults on public officers

June 2020

Introduction

The Queensland Nurses and Midwives' Union (QNMU) thanks the Queensland Sentencing Advisory Council (the Council) for the opportunity to comment on the issues paper regarding *Penalties for assaults on public officers* (the issues paper).

Nursing and midwifery is the largest occupational group in Queensland Health and one of the largest across the Queensland government. The QNMU is the principal health union in Queensland covering all classifications of workers that make up the nursing and midwifery workforce including registered nurses (RN), registered midwives (RM), enrolled nurses (EN) and assistants in nursing (AIN) and students who are employed in the public, private and not-for-profit health sectors including aged care.

Our more than 63,000 members work across a variety of settings from single person operations to large health and non-health institutions, and in a full range of classifications from entry level trainees to senior management. The vast majority of nurses and midwives in Queensland are members of the QNMU.

This year, 2020 will be dedicated to celebrating the International year of the Nurse and Midwife, in celebration of the 200th year anniversary of the birth of the founder of contemporary nursing, Florence Nightingale. The World Health Organisation (WHO) nominated Nurses and Midwives for their invaluable contribution to health care and to highlight the need for a strengthened Nursing and Midwifery workforce to achieve sustainable development goals (SDG) and universal health coverage. The QNMU is proud to embrace this opportunity to invest in the Nursing and Midwifery professions, particularly the investment into minimum safe staffing ratios and skill mix across all health sectors.

Public officers, such as nurses and midwives, have the right to be safe at work and must be protected from harm when they are carrying out their work. We support initiatives that are aimed at responding to and eliminating violence against public officers.

The QNMU therefore supports the Council in reviewing the current offence, penalty and sentencing framework for assaults on police and other frontline emergency service workers, corrective services officers and other public officers that exists in Queensland. We acknowledge that the remit of the Council is focused on the penalties for assaults which is one part of a larger strategy of protecting our public officers from harm.

The QNMU will provide a general response to this inquiry from the view of our members, the nurses and midwives of Queensland.

General comment

We concede there is a dissonance in the subsequent actions taken after an assault on the different public officers. Assaults against nurses and midwives can be viewed as complex and thus may be met with differing repercussions than say for assaults on police. For example, our members report that an assault on a nurse from a patient who is mentally ill may result in a less rigorous prosecution than if the police officer was assaulted. We are not suggesting that this is always the case and we are certainly not diminishing any assaults on any public officers; we are simply highlighting that assaults on all public officers are equally serious and should be actioned equally.

The current COVID-19 pandemic has highlighted the critical role in providing essential services our public officers play. Unfortunately, there have been headlines locally and around the world of the assault of these public officers, particularly nurses and midwives. As recently as April 2020 there were reports of a woman spitting on two workers at the Prince Charles Hospital in Brisbane (Barnsley, 2020). And in New South Wales, nurses and midwives were being told not to wear their scrubs or uniforms outside of the hospital due to reports of nurses being assaulted or spat on by the public (Nguyen, 2020).

This violence has not just resulted from to the COVID-19 virus. It is, unfortunately, a sad reality that when nurses and midwives go to work, they may be subjected to violence and assaults. Statistics from Queensland Health show the total number of reported acts of aggression towards individual staff members has been steadily increasing since 2015/16 financial year to 2018/19 financial year (Queensland Government, 2019). In a yet unpublished survey, the QNMU asked our members whether they have experienced workplace violence in the last three months. Over half (52%) of the respondents replied yes with almost 70% reporting that the source of this violence was from clients/patients/residents.

The QNMU asks that not only are public officers those who are employed in public facilities but should also include those nurses and midwives who work in private health facilities and private aged care facilities. In our preliminary submission we asked the Council to consider a new category of coverage for these healthcare workers other than public officers. We ask again for the Council to consider this.

We acknowledge the challenges in responses to crime. However, if one of the purposes is to deter people from assaulting public officers, equally these penalties must also provide protection for the community. Any penalty must send a clear message that assaults on our nurses, midwives, police, emergency service workers, corrective service officers and other public officers are intolerable.

In our view, penalties for assaults on public officers are just one part of an integrated approach in ensuring a safe working environment. We should not just be relying on penalties alone for protecting our public officers from assaults. Employers still have a responsibility to their employees in providing and maintaining a safe and healthy workplace and having systems in place to reduce the risk of assault and violence. There must also be a focus on preventing violence and ensuring safety and security measures are in place to not only protect public officers but patients and visitors as well.

All employers have a duty to provide safe systems of work for their employees. It is essential that this includes a range of mitigating strategies to decrease the incidents of occupational violence (e.g. adequate staffing, appropriate training, policies and procedures, facility design that promotes safety etc). In a health context there exists a competing duty of care for health practitioners (including nurses and midwives). This duty to provide care for all who present can at times be in conflict with the duty of employers to protect their staff from violence. This conflict lies at the heart of why addressing occupational violence in health and aged care settings proves to be complex and nuanced.

Assaults on public officers do not only solely impact the victim, potentially affecting their personal and professional lives but there may also be negative impacts on the organisations they work for. Consequences of workplace assaults can lead to organisations experiencing recruitment and retention challenges, absenteeism, decreased productivity and low morale (Sharma & Sharma, 2016). In the healthcare environment, not only can assaults disrupt the provision of care but assaults can also impact the service that is provided with studies showing delayed nursing interventions and additional time required to complete nursing work per shift when nurses have experienced violence (Roche, Diers, Duffield & Catling-Paull, 2010). Assaults can also affect witnesses whether they be workers or members of the public.

The QNMU suggests that mandatory sentencing be avoided for assaulting a public officer in Queensland. We acknowledge that other Australian states such as Tasmania, Victoria and Western Australia have a mandatory minimum term of imprisonment for serious offences against police and other emergency workers. However, we believe there may be unintended consequences including a one-size-fits-all approach that may not suit all cases. Our view is that the sentencing of offenders should remain commensurate with the Sentencing Guidelines in the *Penalties and Sentences Act 1992* (Qld).

The QNMU would also support the discussion around reimbursement for court appearances in better responding to the victim's needs. For nurses and midwives who are assaulted while at work, they may be required to attend court, which is often during their normal work hours. They may lose income to attend these court appearances. Whether costs are covered by the hospital and health service or another avenue, we believe it is worth considering as part of responding to a victim's needs.

The QNMU wholeheartedly endorses protection of nurses and midwives and all other public officers from assaults and violence.

References

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