



Queensland Sentencing Advisory Council Policy Submission

Queensland Sentencing Advisory Council
GPO Box 2360
Brisbane QLD 4001

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To whom it may concern,

United Workers' Union (UWU) is a powerful new union with 150,000 workers across the country from more than 45 industries and all walks of life, standing together to make a difference. Our work reaches millions of people every single day of their lives – we feed you, educate you, provide care for you, keep your communities safe and get you the goods you need. Without us, everything stops. UWU members work in a number of roles across the public sector including health, education and emergency services. We are proud of our frontline service workers who work tirelessly for their communities and do so, at times, with high risk to their safety and well-being.

As professionals such as paramedics, teacher aides, allied health workers and clinical assistants, and home care workers, cleaners and operational workers working in frontline public services, we have unique insights into the strengths and weaknesses of current and proposed policy settings and unfortunately many of us have experienced occupational violence in our daily work. Thus, we thank the Queensland Sentencing Advisory Council for the opportunity to comment on the penalties for assaults on frontline service workers.

Occupational violence is a significant issue within the context of pre-hospital health care, with over 90 per cent of Queensland Ambulance Service's paramedics reporting they have been verbally and/or physically assaulted while on the job.¹

Similarly, in schools, a survey in March this year of over 500 UWU member teacher aides indicated that more than 75 per cent of teacher aides have experienced occupational violence. Our members working in public health services such as medical imaging and emergency medical dispatching also risk physical and/or verbal assault in their daily work. Collectively, these workers are putting their well-being on the line at every shift to better the lives of others; they deserve a rigorous culture around the reporting and mitigation of violence in the workplace to minimise the likelihood that they will be put in harm's way.

This submission focuses predominantly on the occupational violence experienced by UWU paramedic and teacher aide members, and puts forward our suggested preventative policy response to this issue. Whilst occupational violence is significant in these settings, UWU members believe that a holistic and preventative, as opposed to a punitive sentencing, approach is key to successfully addressing the root causes of this issue. UWU members advocate for a sentencing approach that builds on the following guiding principles and veers away from mandatory sentencing as a solution:

¹ Queensland Ambulance Service. (2016). Research into Occupational Violence in Australian and New Zealand Ambulance Services, examining research translation opportunities from other disciplines and jurisdictions.

- Understand and address the root causes of occupational violence including investments in public campaigns and systemic reforms that address the complexity of occupational violence;
- Record and unpack every incident of occupational violence to identify the precursors and situations that lead to incidents;
- Invest in interventions that are research-based, responsive and allowed to evolve, for example the use of the latest drugs in sedation in paramedic and health settings and best practice design, systems, strategies and reporting in schools to prevent incidents of occupational violence in the first place.

Understand and address the root causes of occupational violence

“As teacher aides we are exposed to a range of behaviours and unfortunately there are times when incidents of assault occur including bites, scratches, punches and kicks. When reporting the incidents the response is ‘it’s part of the job’ which has resulted in experienced teacher aides feeling unsupported choosing to leave the career. We need to look towards a preventative and educational approach to this significant issue”

- Kirsty Reed, Special Needs Teacher Aide and UWW member

“The judicial system has proven that mandatory sentencing is fraught with barriers that preclude this from being an effective preventative to violence against public officers. We need to develop a better understanding of the long term effects of occupational violence - particularly psychological - on the public officers, the offenders and their respective communities.”

- Torrin Nelson, Clinical Support Officer and UWW member

Occupational violence can be traumatising and adversely affect emergency frontline workers for the rest of their lives. It can, however, also impact on a perpetrator’s life in the same way; an uncharacteristic outburst could dictate the course the rest of their life will take.

A significant proportion of people who require paramedical services are those suffering from the effects of alcohol, drugs, prolonged periods of pain or an overwhelming sense of fear, and may be

acting out of very basic ‘fight or flight’ responses that they will come to later identify and regret.² At the point of crisis or distress many are not likely to make rational decisions; having to serve a mandatory sentence will not have impacted on their decision-making nor will it the next person’s. Of particular relevance to paramedics is the rise of illicit drug offences which, in 2015, was the fastest growing principal offence, up by 68% in 5 years.³ Identifying this exponential growth reinforces the need to emphasise effective, targeted methods of aggression de-escalation training rather than gaol terms, as the occurrence of such offences cannot be assuaged by the threat of a mandatory sentence.

In schools, many of the instances of occupational violence reported by UWU members were perpetrated by students with special needs, who are also unlikely to have an understanding of any punitive consequences to their actions. In such instances, the development of greater awareness around the factors that influence student behaviour, and strategies that cater to students’ individual learning needs and support both teachers and teacher aides to do their best jobs possible are far more vital to the well-being of all parties involved than mandatory sentencing. Indeed, enforcing legislation in schools serves staff and students best when it is focused on workplace health and safety, by making sure that measures to prevent and risk injury are adequately implemented and subject to regular evaluation. Government investment in reducing occupational violence in education should therefore address training and safety needs in schools, rather than increasing the rate or duration of juvenile detention.

Moreover, there is evidence to suggest that mandatory sentencing can increase the likelihood of re-offending⁴. The Victorian Sentencing Advisory Council noted the link between mandatory sentencing and an “increase” in recidivism in 2008⁵ and, as cited in Townsend and Eburn’s (2018) *Response* article Tania Wolff of the Law Institute of Victoria notes that: “Our prison population, perhaps contrary to public perception, is predominantly made up of the poor and disadvantaged. Add to that the addicted, the mentally ill and the cognitively impaired. Prison is not a rehabilitative environment and with recidivism rates at 43 per cent, almost half return to prison inside two years...The notion that the unwell, addicted and impaired will stop committing crimes without rehabilitation and therapeutic programs to deal with the underlying causes of offending is fanciful.” Focus, then, on rehabilitation and therapeutic programs that target the disenfranchised populations who need paramedical services is a vital part of reversing the rise in occupational violence experienced by frontline emergency health workers.

² Townsend, R., & Eburn, M. (2018). Mandatory prison sentences: offering paramedics a placebo rather than protection. *Response: The Journal of Paramedics Australasia*, (Winter).

³ Queensland Government Statisticians Office. (2016). Recorded crime – offenders, Queensland (report). Website URL: <https://www.qgso.qld.gov.au/statistics/theme/crime-justice/crime-justice-statistics/reported-crime#current-release-recorded-crime-offenders-qld>

⁴ Townsend, R., & Eburn, M. (2018). Mandatory prison sentences: offering paramedics a placebo rather than protection. *Response: The Journal of Paramedics Australasia*, (Winter).

⁵ Sentencing Advisory Council, Government of Victoria. (2008). Sentencing Matters: Mandatory Sentencing Research Paper

Record and unpack every incident of occupational violence

“To talk through and reflect on a lived experience of occupational violence with colleagues, peer support officers and services such as Priority One can have a significant impact on an individual’s mental and physical healing. These options can positively affect an officer’s future and longevity in their career.”

- Liesel Cahalan, Acute Care Paramedic and UWU member

A literature review commissioned by the Queensland Ambulance Service’s Paramedic Task Force⁶ cites a number of studies that identify the importance of forensically unpacking paramedics’ experiences of occupational violence. Unpacking these events reveals the complexity inherent in emergency situations and how understanding challenging behaviour is often of more use to frontline workers than the implementation of penalties to perpetrators.

For example, in one emergency incident described in an article in *Response: The Journal of Paramedics Australasia*⁷ an unconscious person, frothing at the mouth, is reported to have struck the paramedic who was treating him. The researchers question what impact the potential of a gaol sentence would have on this patient, who was clearly intoxicated far beyond his ability to consider the impact of his actions on himself and the paramedic treating him. UWU paramedic members treat patients in challenging, high stress environments on a daily basis and their skills in de-escalation are key in managing this.

Similarly, in one case study reported by an UWU teacher aide, a student attempting to strangle a teacher was forcibly removed by the member and two colleagues. If the student did not adhere to the immediate authority and instruction of the teacher and teacher aides attempting to de-escalate his/her behaviour, the threat of mandatory sentencing cannot be expected to have prevented this scenario. Instead, a close analysis of this and other violence incidents in the classroom is necessary for education staff to build effective protocols that will improve upon current practices. Reporting and recording instances of occupational violence in Queensland schools is currently inconsistent, and instances of violence often remain unaddressed.

⁶ Queensland Ambulance Service. (2016). Research into Occupational Violence in Australian and New Zealand Ambulance Services, examining research translation opportunities from other disciplines and jurisdictions.

⁷ Townsend, R., & Eburn, M. (2018). Mandatory prison sentences: offering paramedics a placebo rather than protection. *Response: The Journal of Paramedics Australasia*, (Winter).

Forensically investigating and recording occupational violence allows the identification of the precursors and situations that lead to occupational violence.⁸ Using this information, in turn, can assist in developing research-based violence assessment tools⁹ that assist in making decisions about the application of restraint and the provision of care that may be necessary. UWU members know that the development of these tools is more useful in mitigating the occupational violence associated with their professions than the more abstract threat of the law.

The best interventions for occupational violence are research-based, responsive and continue to evolve

“The Queensland Ambulance Service continues to develop and evolve research-based training and education for their officers to equip them with the tools to de-escalate and mitigate risks. Unfortunately there are times when patients are just too unpredictable despite our best de-escalation approaches. We need to look more towards offender rehabilitation and education (alongside training ambulance officers), not simply focusing on long sentences that have not been proven to improve behaviours or reduce re-offending.”

- Amy Gomes, Critical Care Paramedic and UWU member

Interventions that can be controlled by organisations, such as strictly adhering to WHS legislation, education and training, internal and external communication, developing resources and targeted research, are of more use to frontline UWU workers than mandatory sentencing. Employers must equip frontline workers with targeted skills, training, communication strategies and research findings that evolve with new information and the dynamic contexts in which paramedics and health workers interact with patients, and teacher aides interact with students. Better methods for reporting incidents and regularly consulting staff must also be prioritised to ensure that all that can be done is being done to prevent repeat incidents of occupational violence. This cycle of evaluation and development cannot be replicated in mandatory sentencing as it is designed to be a blanket measure.

Therefore, to improve organisational responses to occupational violence, organisations must be called upon to invest in improving the interventions they can control. For example in schools there also should be systems and strategies in place to combat occupational violence professionally and swiftly, for example: systems to ensure that students who assault staff are removed from schools until adequate measures are put in place; extra behavioural and guidance staff; professional development on behaviour risk management and trauma informed practice for all school staff;

⁸ Queensland Ambulance Service. (2016). Research into Occupational Violence in Australian and New Zealand Ambulance Services, examining research translation opportunities from other disciplines and jurisdictions.

⁹ Luck, L., Jackson, D., & Usher, K. (2007). STAMP: components of observable behaviour that indicate potential for patient violence in emergency departments. *Journal of Advanced Nursing*, 59(1), 11-19.

training in the use of restraint as a last resort; additional teacher aide hours to better support students to decrease incidences overall; and regular consultation, support and follow up of incidences and the impact on both staff and students.

Likewise in relation to paramedics, there is consensus in the research around de-escalation strategies, for example, on the lack of high-quality evidence around de-escalation policy and principles.¹⁰ Within the literature there is a clear demand for further attention and investment in embedding more evidenced-based frameworks into aggression de-escalation training. UWU members want to see this prioritised among employers in order to distil and implement best practices that will minimise the risk of harm to both paramedics and their patients.

In paramedical settings, the use of sedatives in the treatment of patients presenting with acute behavioural disturbance is also an intervention within an organisation's remit and it, too, has been subject to some important research-based developments in recent years. In 2018, the Queensland Ambulance Service oversaw the world's first comparison of the standard sedative, midazolam, with droperidol in pre-hospital settings. The administering of droperidol resulted in significantly fewer adverse events, a drop in the median time to sedation, and required fewer instances of additional sedation than midazolam patients.¹¹ These findings provide paramedics with an improved recourse for intervention in events that pose a significant risk to their well-being, and patients with a less harmful means of mediating behaviour over which they may have little control. The use of such resources, and investment into their research and development, addresses occupational violence at its root cause and the sentencing council should take this into account.

Lastly, communicating the impact and frequency of assault on frontline workers has had some traction in the media and is another worthwhile intervention to invest in. Much of this coverage has been communicated through a frame of zero tolerance, of which mandatory sentencing is the headline. 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.¹² 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.

UWU members know that an amalgam of interventions is needed to systemically address occupational violence. The complexity inherent in practitioner and client or student interactions calls for reform that simply cannot be realised by sentencing, in particular mandatory sentencing.

¹⁰ Inglis, P. and Clifton, A. (2013), "De-escalation: the evidence, policy and practice", *Journal of Intellectual Disabilities and Offending Behaviour*, Vol. 4 No. 3/4, pp. 100-108 and Spencer, S., & Johnson, P. (2016). Deescalation techniques for managing aggression. Cochrane Database of Systematic Reviews.

¹¹ Page, C. B., Parker, L. E., Rashford, S. J., Bosley, E., Isoardi, K. Z., Williamson, F. E., & Isbister, G. K. (2018). A prospective before and after study of droperidol for prehospital acute behavioral disturbance. *Prehospital Emergency Care*, 22(6), 713-721.

¹² Queensland Ambulance Service. (2016). Research into Occupational Violence in Australian and New Zealand Ambulance Services, examining research translation opportunities from other disciplines and jurisdictions.

That is why UWU members are standing united to demand that the Queensland Government: work towards understanding the root causes of occupational violence and incorporate this knowledge in their messaging and interventions; record and unpack every incident of occupational violence to develop new frameworks and tools; and invest in interventions that are research-based and responsive to the dynamic nature of their work. Approaches that support professionals, health workers, school-based staff and the public they serve are best positioned to sustainably reduce occupational violence across the public sector.

For more information on this submission, please contact .

Yours sincerely

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