

Submission to Queensland Sentencing Advisory Council

Review of PENALTIES FOR ASSAULTS ON POLICE AND OTHER FRONTLINE EMERGENCY SERVICE WORKERS, CORRECTIVE SERVICES OFFICERS AND OTHER PUBLIC OFFICERS

Preamble

1. The aim of this document is to outline key issues of concern to Together Queensland, Industrial Union of Employees (Together) members relevant to the terms of reference. This submission relates to Together members employed as Custodial Corrections Officers (CCOs) in Queensland Corrective Services (QCS). It is noted that Together also represents other Public Officers such as Transport Inspectors, Boating and Fisheries Patrol Officers, Workplace Health and Safety Inspectors, among many others, that are protected by the provisions of s340(2AA).
2. Together notes the Terms of Reference includes requirements for consultation with stakeholders including employee unions. Together is happy to participate in face to face discussions with appropriate Council representatives to provide detailed submissions regarding the areas of concern outlined herein.

About Together

3. Together Queensland is an entity in both the state and federal industrial relations systems:
 - Together Queensland, Industrial Union of Employees is an Industrial Organisation of Employees under the *Industrial Relations Act 2016*(Qld);
 - The Australian, Municipal, Administrative, Clerical and Services Union (ASU) Central and Southern Queensland Clerical and Administrative Branch, Queensland Together Branch is a branch of the ASU. The ASU is a registered organisation under the *Fair Work (Registered Organisations) Act 2009* (Cth) (FWRO Act).
4. Together is an organisation of thousands of Queenslanders passionate about harnessing the collective power of workers to make change, build better lives and deliver quality services for the community.
5. Together is creating a community of empowered workers, engaged and active union members and supportive community members. Together they take responsibility and ownership for issues they care about and use their collective power to make change.
6. Health professionals, child protection and disability support workers, scientists, administrative professionals, schools officers, environmental protection workers, TAFE teachers, prison officers, contact centre workers, airlines staff and workers from state government sectors and several areas of the private sector unite to form Together.
7. Together they make change, improve pay and conditions and make Queensland a better place to live.

8. Together is the leading industrial union representing the interests of the employees of Queensland Corrective Services (QCS). Together represents over 2000 of the Custodial Corrections staff employed in the publicly run correctional centres.

Issues of concern – Queensland Corrective Services

9. The following issues have been of ongoing concern to our members in QCS and, it is submitted, should inform the Council’s approach to the Terms of Reference and questions identified for further consultation:

- a. **Increases in assaults of CCOs.** It has been documented in evidence to various bodies including the Crime and Corruption Commission’s Taskforce Flaxton, the Queensland Ombudsman, and the Queensland Industrial Relations Commission that QCS is currently facing levels of over-crowding, physical assaults and risks to health and safety that are unprecedented.

Figure 1 below shows the increases in assaults of prisoners on staff based on data drawn from QCS databases showing numbers of incidents from 2005 to 2018 reported as assaults. It shows a marked increase in assaults (360%) that outstrips the growth in prisoner numbers over the same period (17%).

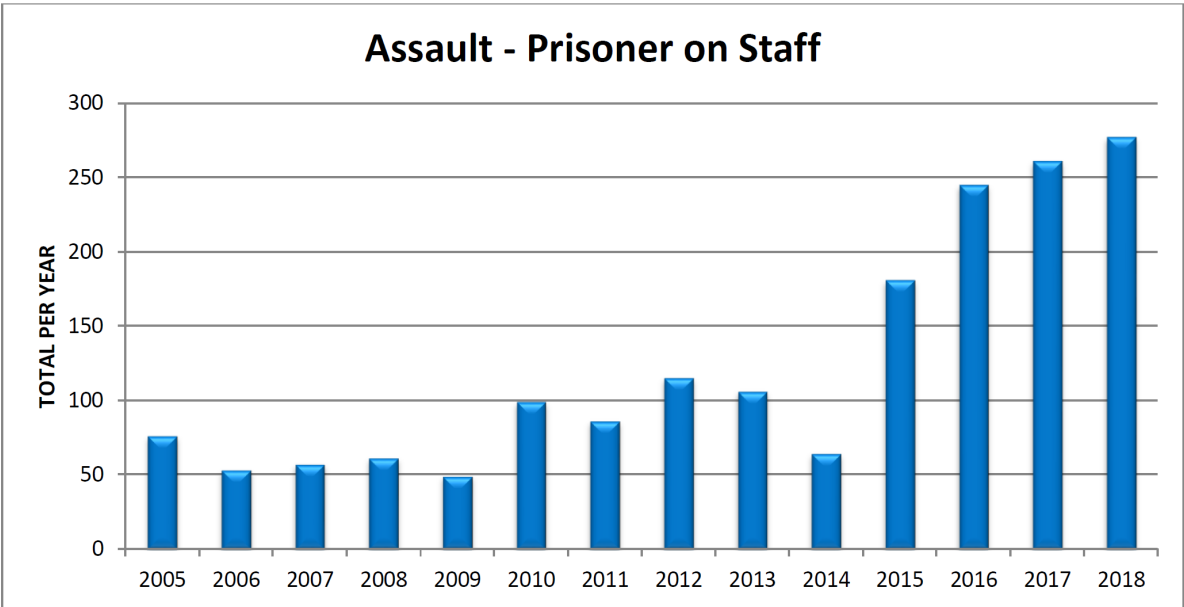


Figure 1: Assault – Prisoner on Staff 2005 - 2018

The review should consider whether sentencing of prisoners who assault Custodial Corrections Officers is having adequate deterrent effect in accordance with the sentencing guidelines contained in the *Penalties and Sentences Act 1992*.

- b. **Assaults don't "come with the job".** Working inside a Correctional Centre carries inherent risks, but that does not mean assaults on CCOs by prisoners should be accepted as 'part of the job'.

The data from which Figure 1 is derived shows that from 2010 to 2018 there were approximately 1500 incidents that were categorized as prisoner on staff assaults. The "Sentencing @ a glance" document provided on the Queensland Sentencing Advisory Council website states that over the same period there were 8,572 cases involving serious assault sentenced in court. Of those assaults only 2.6% (or approximately 220) involved assault of a Correctional Officer at a facility.

This means that 85% of incidents involving assaults have not resulted in a sentence in court. This accords with concerns raised by members that assaults are often ignored with either charges not laid or convictions not occurring.

The review should consider whether sentences reflect the importance of ensuring that assaults on correctional officers are treated as unacceptable.

- c. **s340(2) or s340(2AA)?** There remains confusion as to whether the increased maximum sentences contained in s340(2AA) apply to Correctional Officer given the specific provisions of s340(2). Staff from QCS and the Department of Justice and Attorney General have provided regular assurances that the s340(2AA) maximums are applied but this conflicts with views expressed by Queensland Police Service Officers.

The review should ascertain which provisions are being utilised when charges are laid for assault on a CCO and whether they are appropriate.

- d. **CCOs should be afforded the same protection as Police Officers.** The maximum penalty under s340(1) where an offender bites or spits on a police officer or throws at, or in any way applies to, the police officer, a bodily fluid or faeces is 14 years. This same maximum penalty is not applied in equivalent circumstances involving CCOs despite such assaults being common. Given the high rates of blood borne diseases amongst the prison population, such assaults cause significant stress to CCOs and their families.

The review should consider whether such provisions should also apply to CCOs.

- e. **Concurrent or Consecutive?** The experience of members is that even when there is a successful prosecution of a prison for assaulting CCOs, often the sentence is applied concurrently to that already being served. This results in little deterrence value and leaves our members of the view that the justice system does not view assaults on CCOs as being significant.

The review should consider whether the sentences applied where there are assaults on CCOs are on par with assaults on other Public Officers, Police or members of the public.