



PART B — The impact of assaults on victims of crime

Chapter 5 The impact on victims

The Council's Issues Paper highlighted some of the issues experienced by victims of serious assault and related offences, which the Council has further explored as part of the consultation phase of the Terms of Reference. These experiences relate to the personal and professional impact of assault, as well as the organisational response to these incidents, and the process of reporting and being involved in a criminal justice system response to a violent occupational event.

This chapter outlines the Council's findings about the mixed experiences of victims of those who have been assaulted in their workplace, and the potential implications for improving system responses and reducing the longer-term impacts of these assaults on victims.

5.1 The experience of being assaulted at work

As part of their written submissions to the Council, several organisations included de-identified case studies from individuals who had been the victim of an assault. This section of the Council's report draws heavily on the actual stories of these individuals who have generously written about their experiences of having been assaulted at work.

Through the consultation process, the Council learned that the nature and impacts of occupational violence vary from industry to industry, and from organisation to organisation. This has certainly been borne out in submissions. For police, corrective services workers and youth detention staff, risks clearly relate to the nature of the work – responding to disorderly behaviour, enforcing the law and maintaining order are all tasks that will bring a worker into direct conflict with individuals who, for a range of reasons, may not be able or prepared to accept direction.

A range of case studies provided to the Council on a confidential basis by Queensland Corrective Services (QCS) demonstrate the nature of the incidents experienced by officers working in correctional centres. The incidents reported to the Council included kicking, biting, punching and throwing implements at officers and led to injuries including broken bones and concussion. These occurrences are symptomatic of the violent environment of a prison where corrective services officers are in close contact with individuals who may not have any incentive to treat prison staff with respect.

For other industries – public transport, the health sector, the education sector, child protection services, and a whole host of regulatory agencies – the issues and risks are different.

In the transport industry, for example, different types of workers are exposed to different levels of risk depending on their particular role. Railway station staff are at greater risk than train drivers, for example, due to the level and nature of the contact they have with members of the public, and their physical location (workers in remote locations, for example, are often staffing public transport hubs on their own and therefore are more vulnerable). The Australasian Railway Association provided information to the Council from the Gold Coast Light Rail regarding the nature of incidents experienced by their workers over a three-year period while enforcing ticket regulations and other aspects of public transport. These included:

- verbal abuse and general aggression;
- spitting;
- damage to property such as mobile phones;
- physical confrontations leading to assaults such as pushing, grabbing, slapping or throwing things, but not requiring medical attention; and
- physical assaults leading to injuries such as sprains, soreness and swelling.¹

¹ Email from Director, Corporate Services, Australasian Railway Association to Manager, Policy, Queensland Sentencing Advisory Council, 3 July 2020.

The Transport Workers' Union (TWU) spoke about the particular issues faced by rideshare drivers, a new and rising class of worker. A 2019 survey of 1,100 NSW rideshare drivers found that 40 per cent reported a lack of safety measures as one of their most central concerns:

Drivers also reported instances of death threats, threats of harm, actual physical assaults, sexual harassment and assault. They further reported racist abuse ranging from tasteless jokes, slurs, threats of violence, with instances of angry and drunk passengers damaging and soiling vehicles, and breaking personal property. Violent passengers aren't banned from services and drivers must deal with vehicle damage, medical bills and long-term effects. Drivers have also reported deactivation from false reports, putting them under serious pressure in order to keep their jobs.²

The TWU pointed out that rideshare drivers and food-delivery workers have 'been at the forefront of Australia's response to the Coronavirus (COVID-19) pandemic ... stopping the spread of the virus and enabling people to stay safe in isolation'.³

Workers in the education sector, such as teachers, teacher aides and other school staff, experience a completely different environment in relation to occupational violence. While school staff acknowledge the risk of assault from students, particularly older children, the Queensland Teachers' Union (QTU) identified that 'state schools are in the unique position of being required to create and maintain long term relationships with students and/or their family members/carers'.⁴ The nature of the relationship between teachers and families presents an entirely different context, with schools often needing to have lengthy relationships with a family for many years before the family ages out of the school community. In these situations, victims of assault are aware that they must manage an ongoing relationship, which can often lead them to choose not to report an assault to police and to deal with it using alternative approaches.

For a victim of assault in this context, either the victim or the family need to leave the school altogether if they want to avoid contact. The QTU provided a case study in its submission outlining the journey of a deputy principal who was assaulted and injured by two senior students in 2016, and the significant emotional, psychological and financial impacts on her. These impacts include ongoing psychological support due to fear and anxiety from the offence; avoiding potential confrontation by not visiting popular public places like shopping centres and community complexes; and as of mid-2020 the inability to secure an equivalent position at another school.⁵

A separate issue raised in the education sector is the need for better tracking and management of problem families who continually relocate schools when relationships break down due to threatening or violent behaviour. Being unaware of prior incidents means the school is unable to put in place an appropriate management plan to manage a known risk, and prevent incidents occurring to their staff.

Quite a different set of risk factors face health workers, and again these risks vary according to the nature and location of the person's role. The health industry faces a range of high-risk situations with clients requiring medical attention who present to hospital under the influence of drugs such as methylamphetamine, who are seriously alcohol-affected, who have advanced dementia, or who are experiencing a mental health episode. Sometimes these things operate in combination.

The Council spoke with an Emergency Department (ED) nurse who had been assaulted on many occasions in her role. Her assessment was that the vast majority of the incidents she had experienced related to people seeking access to prescription medication such as Endone or oxycodone. She pointed out the range of potentially very dangerous weapons available in an ED, having been threatened by a tendon hammer and a scalpel in separate incidents, and having an IV pump and pole thrown at her. This interviewee spoke about the impact of changing public attitudes towards people in health roles, particularly in the public sector:

And I think people are just jerks sometimes. You get really genuinely amazingly nice patients who are just so grateful, but it seems to be a society where we're expected to do things and I have a lot of patients that will say to you: 'Well I pay your wage' — that sort of thing. Because it's a public system ... and that's the focus they have, that we work for them. ... That's only been something I've only come across in the last five or six years. I've never been spoken to how I have like that ... Even when I was 19 and I first started working, patients would never even swear at you. But it's changed so much.⁶

2 Submission 12 (Transport Workers' Union) 7.

3 Ibid 8.

4 Submission 20 (Queensland Teachers' Union) 5.

5 Ibid Annexure.

6 Meeting on 19 June 2020.

Case studies written by health workers and included in a submission from Queensland Health provided the most powerful examples of the situations in which health and hospital staff are exposed to danger and violence. The case studies report assaults from spitting, biting and throwing of bodily fluids, to bruising and abrasions, all the way through to choking, broken bones and head injuries.

The themes emerging from these case studies echo the comments in other organisational submissions, which allude to the potential for far-reaching impacts on the life of a victim of occupational violence, on their family and on their future working lives. This includes both physical and mental health impacts, with recovery that can be lengthy and very individualised:

The unpredictable nature of the punch has made me question my nursing skills. I have nursed for almost 7 years, and nothing has made me question my assessment and communication skills like this. I now find myself suspicious of a patient or a relative's behaviour, questioning myself what their intentions are and if I need to step back and reassess the situation, even with the calmest of patients ... I have also found a new insecurity when it's dark outside and I'm leaving work. I used to be confident walking to my car, but now if I'm not accompanied by a colleague, I ask security to escort me there. I understand that my quality of life has not been a vast decrease since being punched, compared to others who may have worse injuries, but I don't know what may happen in the future. I understand that the anxieties around my work and my confidence should improve with time. (Case study 10)

If anything, I am hypervigilant now whenever I walk into that particular area and other mental health wards. Following the incident I felt more anxious when attending incidents, particularly as this was an unprovoked attack. In September it will be two years since this occurred. The thought of the offender pleading not guilty and me having to give evidence is incredibly stressful. (Case study 12)

The trauma associated with this has significantly affected my day to day living. Going to work is a struggle, but I have to support my family. (Case study 14)

Personally, I have been scratched, bitten, kicked, punched and spat on. I have had to endure the year-long waits for a clearance after having saliva and/or blood spat in my face. I am sure that this, in part, was a part of the reason for my marriage to fail. (Case study 15)

The main problems I experienced were anxiety, sleep disturbance and flashbacks. (Case study 17)

The thing that angers me is that the biggest injury during an occupational violence is the psychological trauma. I was made to feel as if it was part of my job. On the day of my incident, I left my home a complete, happy person and I came back a broken soul. And only time will tell when I can be the same jolly person I was. I miss the old me. (Case study 18)

The injury and two surgeries impacted on every area of my life and it was a long road to recovery. I was unable to eat solid food for several months and unable to engage in any of my usual activities for fear of aggravating the injury. I had pain management to assist with pain and discomfort and endured a great deal of stress and worry at the time. Since the surgery, my mouth's bite opening has been reduced and I have received maxillofacial physiotherapy. I continue to experience numbness in the left side of my jaw and cheek. I have since returned to full operational duties, but not a day goes by that I am not concerned for my welfare. (Case study 19)

This incident left me extremely shaken and anxious. I had a few days off work and found myself feeling anxious and nervous even walking past strangers whilst out exercising. I felt an irrational fear that anyone could attack me, unprovoked, at any time. (Case study 20)

There are always going to be days that are good and days that are bad and occasionally there are those days that give me flashbacks and nightmares. But this is where I remind myself of how far I have come and where I am today. (Case study 21)⁷

5.2 Impacts on workplaces and the community

Beyond the impact on individuals themselves, the Council has considered the broader impact on workplaces and the community. For example, the impact of occupational violence on recruitment and retention of staff was cited in a number of submissions by individuals and organisations. The nurse victim of serious assault interviewed by the Council pointed out the loss of specialist medical staff as a consequence of the assaults experienced by staff in these roles:

... the impact their actions has on people — not just in leaving nursing, but in leaving specialty areas like emergency — where Australia has a national shortage of emergency nurses — it is a specialty area. That impact on nursing, and on management having to deal with that ...⁸

⁷ Submission 9a (Queensland Occupational Violence Strategy Unit), Appendix 1 (confidential, reproduced with permission).

⁸ Meeting on 19 June 2020.

This was echoed by the Queensland Nurses and Midwives' Union:

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).⁹

Queensland Corrective Services noted that assaults on corrective services officers can have 'a significant impact on the [broader] workforce and QCS operations'.¹⁰ Citing relevant research on the impacts of assaults in custodial settings, it noted:

Increases in assaults in custody lower feelings of safety and increase CSOs' level of vulnerability. The assault can impact on the centre's culture and morale, which can also impact on the dynamic and social climate of a facility. This generally creates a culture of fear and nervousness among staff and the wider prison leading to a greater likelihood that use of force may be applied. ... Violence against public officials has flow-on costs to government due to lost productivity, sick leave and overtime to cover shifts. Prisoner assaults on CSOs increase the risk of industrial action and civil cases against the service. This has implications for the attractiveness of QCS as an employment option and can lower community confidence in corrective services.¹¹

WorkCover data presented in section 4.3 show the financial impact of occupational violence, which includes days away from work on sick leave, and can sometimes mean long-term absences while someone regains their confidence and returns to the workplace.

The Bar Association of Queensland also notes the potential impact on the welfare system:

An assault at work has particular aspects of seriousness. Work is the way in which livelihoods are earned. Upon a person being assaulted at work the consequences may well be an inability to continue in that employment for a period; which has ramifications upon the individual and potentially the welfare system.¹²

5.3 The needs of victims

The experience of a violent event will affect individuals in different ways and multiple ways. What may have a significant impact on one person, may not have the same level of impact on another. Responses to a traumatic event such as an assault can vary from a mild response that can resolve quickly, to a severe and ongoing experience that can lead to a mental health diagnosis.¹³

Clearly there are several immediate needs of victims that must be attended to. While there may be physical injuries, some of which need medical attention (and some of which may impact on a person for months or years), there will always be an emotional response. This can be experienced either at the time of the event or develop over time. For some victims of violent encounters, the emotional symptoms can continue and deepen into a state of psychological trauma.

The needs of victims, therefore, vary depending on the individual and will change over time.

In the very first instance, a victim may need both physical and psychological first aid.¹⁴ While treatment for any physical injuries is an obvious first issue, it is also the support and emotional care provided by first responders that can make a significant difference to the emotional recovery of an assault victim.

⁹ Submission 14 (Queensland Nurses and Midwives' Union) 4.

¹⁰ Submission 21 (Queensland Corrective Services) 4.

¹¹ Ibid 8.

¹² Submission 27 (Bar Association of Queensland) 1.

¹³ Judicial College of Victoria, *Victims of Crime in the Courtroom: A Guide for Judicial Officers* (Judicial College of Victoria, Melbourne, 2019) 3.

¹⁴ Psychological first aid is a practical set of skills that aim to support someone in a time of stress. It helps a person to articulate what their immediate needs or concerns are; ensures they feel they are not alone; helps them to cope with any immediate problems they are experiencing; provides information about support services; and connects them with social supports (Queensland Health, Occupational Violence Incidence Response Kit, date unknown).

A substantial body of literature has developed in relation to emotional and psychological trauma, which can be defined as:

the result of extraordinarily stressful events that shatter your sense of security, making you feel helpless in a dangerous world ... Traumatic experiences often involve a threat to life or safety, but any situation that leaves you feeling overwhelmed and isolated can result in trauma, even if it doesn't involve physical harm.¹⁵

It is acknowledged in the literature that emotional and psychological trauma can be caused by a single incident such as an accident, injury or a violent attack,¹⁶ and that an individual's response can be influenced not only by their own experience, but by whether they have access to supports, their coping and life skills and those of their immediate family, and the response of the broader community.¹⁷

Some of the emotional symptoms of psychological trauma are:

- shock, denial or disbelief;
- confusion and difficulty concentrating;
- anxiety and fear;
- guilt, shame and self-blame;
- social withdrawal;
- feelings of sadness or helplessness; and
- feeling disconnected or numb.¹⁸

Psychological trauma can change one's perspective on life, where a person might feel the world to be a dangerous place and people as being untrustworthy, or they may see themselves as weak or inadequate, or that they should have responded differently in the situation.¹⁹ Trauma can also manifest physically, with symptoms such as:

- insomnia and nightmares;
- fatigue;
- being easily startled;
- racing heartbeat;
- aches and pains; and
- muscle tension.²⁰

These symptoms are common for people who have experienced a traumatic event and can last weeks before they recede. If they continue for a period of more than a month, or if they worsen over this time, the person may enter the more chronic experience of trauma – post-traumatic stress disorder – where the person may report one or more of a range of symptoms, in conjunction with a host of other physical and psychological symptoms. These symptoms can include:

- recurrent, involuntary and intrusive distressing memories of the event;
- recurrent distressing dreams that relate to the event;
- dissociative reactions such as flashbacks;
- intense, prolonged psychological distress where internal or external cues resemble an aspect of the event;
- marked physiological reactions to internal or external cues that resemble an aspect of the event.²¹

¹⁵ Lawrence Robinson, Melinda Smith and Jeanne Segal, 'HelpGuide', *Emotional and Psychological Trauma* (Web Page, February 2020), <https://www.helpguide.org/articles/ptsd-trauma/coping-with-emotional-and-psychological-trauma.htm>.

¹⁶ Ibid.

¹⁷ Center for Substance Abuse Treatment, 'Chapter 3 – Understanding the Impact of Trauma', *Trauma-informed Care in Behavioral Health Services, Treatment Improvement Protocol Series, No. 57* (2014) (Web Page, 2014) <https://www.ncbi.nlm.nih.gov/books/NBK207191/#part1_ch3.s2>.

¹⁸ Robinson, Smith and Segal (n 15).

¹⁹ Seth Gillihan, '21 common reactions to trauma', *Psychology Today* (Web Page, 7 September 2016) <<https://www.psychologytoday.com/au/blog/think-act-be/201609/21-common-reactions-trauma>>.

²⁰ Robinson, Smith and Segal (n 15).

²¹ American Psychiatric Association, *Diagnostic and Statistical Manual of Mental Disorders (DSM-5)* (Arlington, VA, 5th ed, 2013) 271–2.

Treatment for post-traumatic stress disorder is critical. It can include psychological therapies, drug treatment, exercise, mindfulness and self-help strategies such as yoga or relaxation activities.²²

What is clear from the literature reviewed for this chapter is that an early response and the delivery of psychological first aid, combined with longer-term strategies such as counselling and self-care routines, are key to ensuring that the impact of a traumatic event such as occupational violence does not result in a person being diagnosed with post-traumatic stress disorder, which can have profound effects on an individual's life and that of their family.

5.4 Victim reflections on the response from their employer

It became clear to the Council during the course of consultation with individuals and organisations that occupational violence is a workplace health and safety concern for many industries. One of the Council's key observations about institutional responses to assault in the workplace is that they vary across industry groups, with some occupations having well-developed approaches to the issue, while others are still at an earlier stage of developing systems for prevention and response.

For someone who is assaulted at work, a supportive and informed response from their employer is paramount. It became clear from the case studies provided in submissions that positive experiences from one's workplace, not only at the time of the incident, but in the weeks and months that follow, form a critical role in the recovery process. While the majority of case studies, not surprisingly, address the negative experiences of becoming a victim of assault in the workplace, there were some individuals who spoke about those things that they felt helped them. These are instructive and demonstrate the benefits of investment in appropriate institutional responses to occupational violence:

Being supported to press charges when assaults happen helps me to feel safe in continuing to do the job I love doing. (Case study 6)

I was able to request within my workplace to not work at triage for the next few weeks and this is where I felt most vulnerable, exposed and nervous to be speaking to members of the public. I have since had five sessions with the hospital psychologist as follow up to the incident. This has been helpful and a much-appreciated resource. (Case study 20)

This is where the workplace rehabilitation officer comes in, she was amazing. Called me every day to ensure I was OK and safe. Not only did she call, but she assisted with paperwork and making appointments. (Case study 21)

Thankfully, I had a representative from the health service assist with the legal side of things and would only update me on the information I only needed to know. This was a blessing — not having to go to the courts and risk exposing myself to trauma and anguish. (Case study 21)

I've never seen two departments rally around their staff so emotionally. I've always been a believer that there is a huge 'ethical dilemma' in dealing with violent patients — on one hand, we know that 'D is for Danger', yet there is something inherently inside of us that just can't walk away. If each one of those staff didn't risk their own safety for the sake of their colleagues, things could have been so much worse. (Case study 25)²³

Not only is it critical to recovery, employer support is also the most important factor in encouraging people to report incidents in the workplace. This issue is further explored in Chapter 11 of this report.

5.5 Victim reflections on their experience with the criminal justice system

Taking the step of reporting an assault to police and engaging with the criminal justice system to pursue prosecution is another area that varies across occupational groups. Some groups, such as police and corrective services officers, are clearly more comfortable reporting a violent incident at work than groups such as teachers and health workers.

That aside, it is clear that many victims of crime do not have positive experiences of the criminal justice system. In preparing its report on sentencing for offences arising from the death of a child, victims of crime and the services that support them told the Council that they found the legal process 'protracted, complex and confusing' and that 'communication and the provision of information and support provided through the process could be improved'.²⁴

²² Black Dog Institute, *Post-Traumatic Stress Disorder Treatment* (Web Page) <<https://www.blackdoginstitute.org.au/resources-support/post-traumatic-stress-order/treatment/>>.

²³ Submission 9a (Queensland Occupational Violence Strategy Unit), Appendix 1 (confidential, reproduced with permission).

²⁴ Queensland Sentencing Advisory Council, *Sentencing for Criminal Offences Arising from the Death of a Child* (Final Report, October 2018) 170 [10.4.7].

From comments in submissions, and discussions with individuals during the consultation phase of this project, it is clear that victims of serious assault are often disappointed in their experience of the criminal justice system. This disappointment arises from several key issues, which will be explored in the remainder of this chapter.

Disappointment with sentencing outcomes

One of the central themes arising from consultations is the expectation that victims of serious assault hold in relation to the penalty outcome. This is a universal theme expressed by many victims of a personal or violent offence, and many look to the sentencing outcome for validation of the impact of their experience and condemnation of the offender's behaviour. The quantum of the sentence can equate to feelings of their own value to society, and several submissions touched on this issue:

Often, staff 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.²⁵

The case studies of individuals in the health sector that were provided by Queensland Health as part of its submission again outline very starkly these feelings of disappointment:

I got bitten, waited two years for the matter to go to trial only for the offender to plead guilty and get a suspended sentence, not serving a single day in custody. To further add insult the Judge elected to not award any compensation/restitution. I think that is a reasonable example of why society has a cynical view of the current court system. (Case study 1)

I am very disappointed with the whole justice system especially considering the Queensland Government were advertising the '7 years jail term for assaulting public officers'. My case was not taken seriously by the DPP nor it seemed, by the Magistrate. Due to the disappointing experience I had, there will be more alleged offenders not even being charged, because my case was disregarded and in hindsight, a complete waste of time for my witnesses and me. (Case study 2)

The above incident indicated to me the various departments and people within them don't support the victim. Although I was on WorkCover for my injury the lack of compassion for staff who were injured and the mere contempt for courts and legislation and judges' rules was mind blowing ... none of the incidents and court proceedings have resulted in any actual prison time despite the apparent 'Zero Tolerance' and has resulted in repeat offenders and lack of regard for legislation and contempt for courts. (Case study 4)

... I suppose the cumulative effects are the contempt I have for internal and legal processes. (Case study 5)

I pressed charges, but despite there being video evidence, the judge did not record a conviction. This left me feeling let down by the process, despite receiving very good support from my department and the hospital. The general feeling amongst my colleagues is that whenever it involves mental health patients, the police are less interested in the matter, as they presumably feel like it is harder to get a conviction. This is certainly my experience. I have had physical assaults since this time, but I have not bothered to pursue them due to the expectation that QPS and the court system will once again be disinterested in pursuing a conviction. I am also disheartened by the experiences of my colleagues who have been assaulted and attended court. Despite supposed minimal sentencing for assaults of public officers, their experience is still that their attacker gets a slap on the wrist and a small fine. This leaves us feeling exposed and under-valued. As a frontline worker, we are expected to attend to frankly hostile people, whether drug-influenced or not, yet we increasingly feel that our safety is not a factor for the courts. (Case study 8)

I elected not to notify police although this was suggested by senior nursing staff on duty at the time. I always wondered, what's the point? No one will ever prosecute. (Case study 9)

I received a punch to the face resulting in a deviated septum that required surgery. I pressed charges against the individual who was found guilty of assault and given a 'whopping' \$500 fine plus court charges, totally about \$2,000. The individual had previously attempted to pay me off with \$3,000 to walk away and drop the charges, which I declined. (Case study 10)

That is the events of the night. That, I am over. It was the next step that left me traumatised. The next day I went to the police station and made an official complaint, only to be told that it is highly unlikely anything will go any further than a complaint. How disappointing that staff do not get natural justice when assaulted by patients who appear to be protected by the system. Two other people made complaints to the police that day. Mine went to the mental health court, one never made it past a complaint and the Night Nurse was given a payout as she never returned to work. The patient was deemed to be unfit for trial indefinitely, so there was no outcome for me. (Case study 16)

²⁵ Submission 9a (Queensland Occupational Violence Strategy Unit), Appendix 1 (confidential, reproduced with permission).

After about 2 years, I received a call from QPS, who advised me that the matter was due to be heard in court in a few weeks. I was advised I was not required to attend and would be notified of the outcome. A few months went by, and I hear nothing, until I received a letter in the mail advising that I was awarded \$250 in restitutions. (Case study 24)

All of the staff were injured, but the damage sustained to the new grad was clear. A significant head and psychological injury could only mean one thing – her career was over ... In fact, the new grad was devastated when she told me that despite her career-ending injury, the patient only received a \$360 fine. As if that's all her life is worth ... (Case study 25)

In contrast, a number of legal stakeholders who made submissions to the Council's review considered current sentencing practices for these offences, in general, to be adequate and appropriate:

Upon considering the cases, our committee members observe that the courts have been far from lenient when sentencing offenders for this offence. Most cases have led to the offender receiving a term of imprisonment. Anecdotally, it appears most offenders receive an actual period of imprisonment for serious assaults with circumstances of aggravation, particularly in cases where the offender has spat upon or bitten the public officer. Even when the offender is a youth or has mental health issues at the time of the offence, most offenders are sentenced to a period of imprisonment, though generally suspended or with immediate parole.²⁶

LAQ is of the view that the current sentencing process in Queensland adequately meets the needs of public officer ... victims. It is clear from the research discussed in the issues paper that courts are treating this offending seriously and imposing adequate penalties. If there are to be amendments, we reiterate that the discretion of the court should be maintained.²⁷

The Association submits that the current legislative framework adequately and effectively provides for assaults against public officers as provided for in section 340 of the *Criminal Code* ... The Association is of the opinion that, generally, existing offences, penalties and sentencing practices in Queensland do adequately and appropriately respond to assaults against police ... The Association does not accept ... that current sentencing practices are inadequate or inappropriate.²⁸

Court delays

Several case studies spoke about the long process that ensues in court before a matter is finalised:

He had the first appearance for court delayed, citing his witness was not available to attend court ... Three months after the initial court appearance should have happened, which was nine months after the alleged assault, we attended court ... The Magistrate did not want me on the stand for too long and while giving my statement, she kept telling me to pause as she 'could not write very fast'. The session was adjourned for a two-hour lunch break, then my witnesses and I were told at approximately 3.30 pm that it was in fact being adjourned, with no estimated timeframe given. (Case study 2)

The patient was charged and referred to Mental Health Court. The matter was heard two years later, and the individual was found not guilty, due to the patient's mental condition at the time. During this process QPS had a liaison officer who would update me as the matter progressed. (Case study 5)

The court case took over 18 months to settle. The patient wasn't charged straight away. I got a call Easter weekend informing me that he had been arrested and charged. I was oblivious, I thought this meant he sat in a cell until a court case. I soon discovered this was not the case when the patient was in the medical imaging department where I had run into him. After several adjournments from the court, the patient finally had their hearing, he pleaded mental health. This then made the court case even longer. (Case study 21)

I was assaulted earlier this year. A complaint was made to QPS, and body-worn camera footage was provided. Not surprisingly, I have not heard anything since. Everyone expects a long, drawn-out process. Not expecting any real outcome – if history is anything to go by. (Case study 22)²⁹

The submission from the Queensland Human Rights Commission also raised the issue of delays in the criminal justice process, and the impact of these being 'harmful to victims and have an impact on the ability to give credible evidence'.³⁰ One way of ameliorating the experience for victims, particularly when a number of delays may be experienced, is to provide regular updates about the progress of a matter through the prosecution process. The Queensland Human Rights Commission provides a good summary of the information that victims need when

²⁶ Submission 30 (Queensland Law Society) 3.

²⁷ Submission 29 (Legal Aid Queensland) 3.

²⁸ Submission 27 (Bar Association of Queensland) 6, 8, 11.

²⁹ Submission 9a (Queensland Occupational Violence Strategy Unit), Appendix 1 (confidential, reproduced with permission).

³⁰ Submission 18 (Queensland Human Rights Commission) 13 [48].

engaged in the criminal justice system, which also reflects obligations of Queensland government agencies and non-government organisations under the Charter of Victims' Rights:³¹

... a victim should be kept informed about such things as: progress of a police investigation, decisions about the prosecution of the accused person, warrants that have been issued, court processes and hearing dates, details of the sentence, outcomes of bail application, and arrangements for release of the accused person.³²

This leads to the next most commonly cited experience for victims of occupational violence – the lack of timely updates on the progress of a matter once it has reached court.

Lack of timely information

This issue has been very much raised in other projects undertaken by the Council. It became clear during consultations with agencies, and has been confirmed in written submissions, that there is a significant lack of information and knowledge for people who interact with the criminal justice system, including about how sentencing operates, and the role of maximum penalties.

After the incident I contacted the police, who attended later in the shift. They asked me if I would like to press charges, to which I said yes. They took an informal statement the next day ... After speaking with the patient, they informed me she had admitted to the assault and I would therefore not need to give a formal statement, unless she changed her plea at a later time. This was quite confusing, as I thought they should take a statement when it is fresh in my mind, not months later, if she decided to plead not guilty. I got no further input or feedback from the police after this point. I assume she was charged with assault, but I am unsure. (Case study 7)

I am unaware of any outcomes of the court process, thus far apart from being made aware that the matter has been referred to the Mental Health Court. (Case study 17)

I never really knew where the process was at, as I had little to no communication with the QPS as to the status of the case. I also understand that it took several weeks for evidence (CCTV footage) to be requested from my hospital. This concerned me greatly, as there is such a short window to save footage. (Case study 19)

Whilst I'm not aware of the ins and outs of the court process, I can tell you this. The patient was from intra-state and successfully applied to have the court case heard locally. Despite all of the staff pressing charges, none were aware of what was occurring throughout the court process. (Case study 25)

In its report *Sentencing for Criminal Offences Arising from the Death of a Child*³³ the Council made specific recommendations aimed at improving the experience of family members of child homicide victims with the criminal justice system. Recommendations 3–6 of that report addressed the need to improve victims' experiences of:

- support provided by the Queensland Police Service through appointment of dedicated Family Liaison Officers to support bereaved family members through the criminal justice process;
- interactions with the Office of the Director of Public Prosecutions to ensure effective communication occurs regularly to keep family members informed of key events and major decisions made about the prosecution of a person accused of committing a child homicide offence; and
- their involvement in the court process, specifically to see the development and provision of practical information for courts about responding to the needs and interests of family members of child victims of homicide.

Clearly, the offence of child homicide is a particularly serious one, and the needs of family members should be carefully considered. However, there is a need to consider all victims of crime, particularly victims of personal and violent offences, who look to the criminal justice system and the community for condemnation of the behaviour and validation of their experience. All victims of crime need regular information about what is occurring in their matter, and what the likely next steps will be.

5.6 Conclusion

This chapter has highlighted the significant impacts an assault can have on a victim who has experienced violence in their workplace, and the continued need to improve information and support to victims to assist with their recovery.

Ensuring there are appropriate institutional responses to occupational violence is an issue expanded on in Chapter 11 of this report.

³¹ *Victims of Crime Assistance Act 2009* (Qld) sch 1AA.

³² *Ibid.*

³³ Queensland Sentencing Advisory Council (n 24) 171.

The Council suggests these mechanisms may prove a beneficial way to provide victims with the additional support they require in making a formal complaint to police where they wish to pursue this, and in navigating the criminal justice process.

The Council further supports the Queensland Government exploring options to make Adult Restorative Justice Conferences more widely available to victims of workplace assaults both as a diversionary option for less serious forms of assault and, in the case of more serious offences, as a supplementary process. While this might not be an option all victims wish to pursue, the Council considers this option might allow for a more meaningful engagement of victims in the criminal justice process, and lead to improved outcomes both for victims and offenders.

This issue is further discussed in Chapter 11.