

# Chapter 7 How are assaults on public officers dealt with by the courts?

## 7.1 Introduction

The Terms of Reference ask the Council to consider and analyse the penalties and sentencing trends for offences involving assaults on public officers under section 340 of the *Criminal Code* (Qld) – including the impact of the 2012 and 2014 amendments introducing higher maximum penalties. The Council has also been asked to review other offences involving assaults on public officers in other legislation to assess the suitability of providing for separate offences in different Acts targeting the same offending – including their impact on sentencing outcomes for assaults on public officers.

This chapter presents the Council’s findings regarding sentencing outcomes for serious assault under section 340 of the Code and summary offences of assault and obstruct that can be charged under the *Police Powers and Responsibilities Act 2000* (Qld) (PPRA) and *Corrective Services Act 2006* (Qld) (CSA).

## 7.2 Custodial penalties for assaults of public officers

### Section summary

- The use of custodial penalties for assaults on public officers charged under section 340 of the *Criminal Code*, section 790 of the PPRA and section 124(b) of the CSA has increased over the past 10 years.
- Almost all serious assaults of a public officer sentenced in the higher courts over this 10-year period resulted in a custodial penalty being imposed (90.6% of cases, MSO). In the Magistrates Courts, almost two-thirds of cases resulted in a custodial sentence (64.8%).
- The lesser summary offence of assaulting a police officer under section 790 of the PPRA resulted in a custodial penalty in 13.4 per cent of cases; much higher than the 3.4 per cent of cases with custodial outcomes for obstructing a police officer (MSO).
- The summary offence of assaulting or obstructing a corrective services officer under section 124(b) of the CSA almost always resulted in a custodial penalty (84.0% of cases, MSO).
- The average sentence for non-aggravated serious assault in the higher courts was 1.0 years where the victim was a police officer and 0.9 years in circumstances where the victim was a corrective services officer.
- Sentences were shorter in the Magistrates Courts for non-aggravated serious assault, averaging 0.6 years where the victim was a police officer, 0.7 years for assaults on corrective services officers, and 0.4 years for assaults on other public officers.

This section of the chapter explores sentencing outcomes in more detail for offences involving assaults on public officers charged under section 340 of the *Criminal Code*, as well as for offences under the PPRA and CSA.

A different sentencing regime applies to young offenders sentenced in Queensland under the *Youth Justice Act 1992* (Qld) from that which applies to adults sentenced under the PSA (see Chapter 6 for more information). For this reason, the penalties imposed on adult offenders and young offenders are discussed separately.

Throughout this section, the phrase ‘**relevant serious assaults**’ means assaults on police officers under section 340(1)(b), corrective services officers under section 340(2), people performing or who performed a duty at law under sections 340(1)(c)–(1)(d), and other public officers under section 340(2AA). The phrase ‘**relevant summary offences**’ means assaults and obstructions of corrective services staff under section 124(b) of the CSA, resisting a public officer under section 199 of the *Criminal Code* (Qld), and assaulting or obstructing a police officer under section 790 of the PPRA.

### 7.2.1 Overview of custodial penalties

#### Relevant serious assaults

Figure 7-1 shows the percentage of cases in which a custodial penalty was ordered for a relevant serious assault offence (MSO). The data period for this analysis only includes offences committed on or after 5 September 2014, when aggravating circumstances were introduced for serious assault of a public officer.

In the Magistrates Court, a custodial penalty was issued in 64.8 per cent of cases where serious assault of a public officer was the MSO (n=1,641). Almost all serious assaults of a working corrective services officer charged under

section 340(2) resulted in a custodial penalty (93.3%, n=84), which can be explained by the fact that prisoners who commit a serious assault against a corrective services officer are already serving prison sentences. The proportion of custodial penalties was also high for serious assaults of police officers and public officers with circumstances of aggravation. For offences against police officers, 75.1 per cent of serious assaults with circumstances of aggravation resulted in a custodial penalty (n=833); while in the case of public officers, 73.1 per cent of aggravated serious assaults resulted in a custodial penalty (n=125).

In the higher courts, a custodial penalty was issued in 90.6 per cent of cases where serious assault was the MSO (n=261). As expected, all serious assaults of working corrective services officers resulted in a custodial penalty (100%, n=14). For police officers, 94.3 per cent of serious assaults with circumstances of aggravation resulted in a custodial penalty (n=181); for public officers, 85.7 per cent of aggravated serious assaults resulted in a custodial penalty (n=30).

**Figure 7-1: Proportion of relevant serious assaults resulting in a custodial penalty (MSO), adult offenders**



Data include adult offenders, offences occurring on or after 5 September 2014, cases sentenced from 2014–15 to 2018–19. Source: QGSO, Queensland Treasury – Courts Database, extracted November 2019.

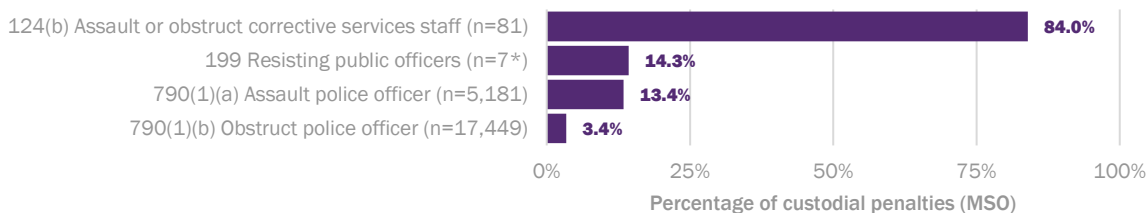
Note: In the higher courts, serious assaults on persons performing/performed a duty at law under s 340(1)(c)/(d) were not reported due to small numbers (n=3).

### Relevant summary offences

Figure 7-2 shows the proportion of summary offences (involving the assault of a public officer) that resulted in a custodial penalty. The vast majority of these offences (MSO) were sentenced in the Magistrates Courts (99.9%).

The summary offence of assaulting or obstructing a corrective services officer (s 124(b)) was the most likely to result in a custodial penalty, with 84.0 per cent of cases (MSO) resulting in a custodial sentence. For offences under the PPRA, assaults of a police officer were much more likely to result in a custodial penalty than obstructions of a police officer (13.4% and 3.4%, respectively).

**Figure 7-2: Proportion of summary offences resulting in a custodial penalty (MSO), adult offenders**



Data include higher and lower courts, adult offenders, cases sentenced from 2009–10 to 2018–19.

Source: QGSO, Queensland Treasury – Courts Database, extracted November 2019.

Notes: A small proportion of cases sentenced under s 790 were not included as it was unclear whether they involved an assault or an obstruction (n=761).

(\*) Small sample size

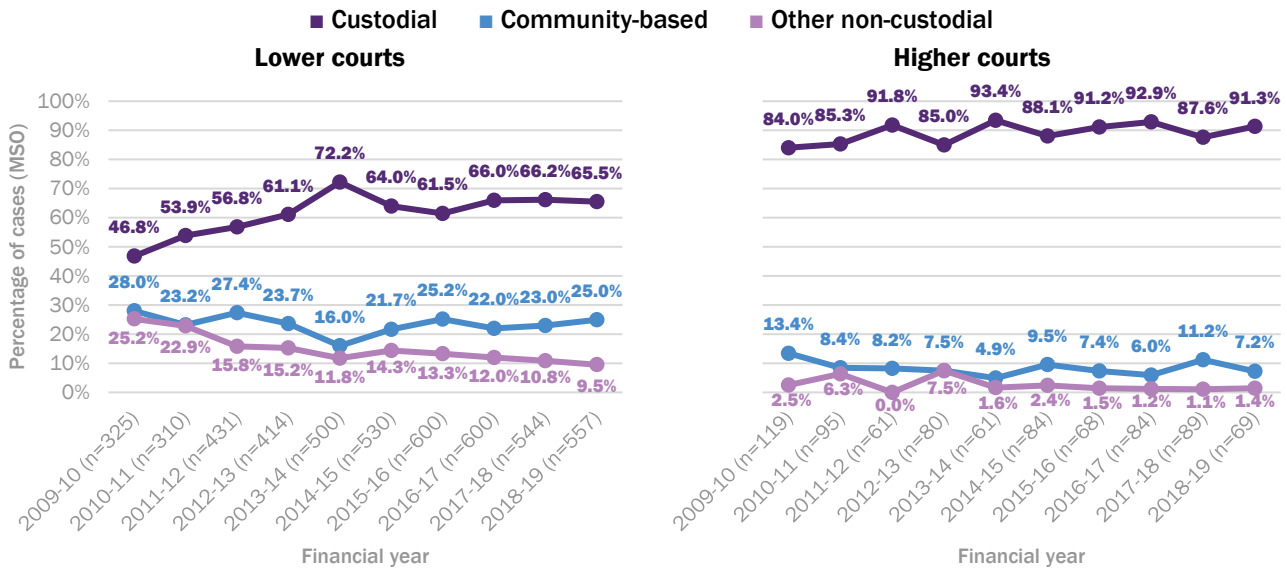
## 7.2.2 Sentencing trends over time

### Relevant serious assaults

Figure 7-3 below shows high-level sentencing trends for relevant serious assaults in the higher and lower courts.

Custodial sentences have become more commonly imposed by Magistrates Courts for section 340 offences, representing under half (46.8%) of penalties in 2009–10, rising to 65.5 per cent in 2018–19. Custodial sentences have also become more common in the higher courts, having increased from 84.0 per cent in 2009–10 to 91.3 per cent in 2018–19. This may partly reflect broader sentencing trends as there was a general increase in the use of custodial penalties across all offence categories in Queensland over this same period.<sup>1</sup>

Figure 7-3: Type of penalties issued for relevant serious assaults over time (MSO)



Data include adult offenders, MSOs sentenced from 2009–10 to 2018–19.

Source: QGSO, Queensland Treasury – Courts Database, extracted November 2019.

Notes: (1) 'Custodial' includes imprisonment, partially suspended sentences, wholly suspended sentences, and intensive correction orders. 'Community-based' includes community service and probation. 'Other non-custodial' includes monetary orders (including fines, restitution, and compensation), good behaviour bonds, and convicted not further punished.

(2) Includes serious assaults that involved a public officer, including s 340(1)(b) police officers, s 340(1)(c) person performing a duty imposed by law, s 340(1)(d) person who performed a duty imposed by law, s 340(2) corrective services officers, s 340(2AA) public officers.

<sup>1</sup> Queensland Sentencing Advisory Council, *Community-based Sentencing Orders, Imprisonment and Parole Options* (Final Report, July 2019) 17.

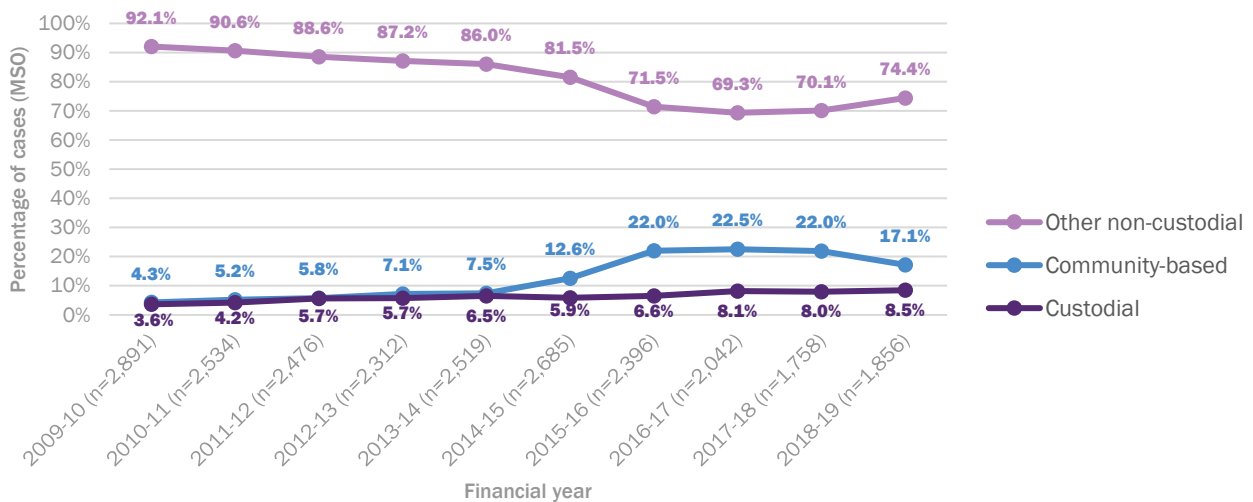
## Relevant summary offences

Figure 7-4 shows high-level sentencing trends for relevant summary offences for assault of a public officer in the Magistrates Courts.

For these offences, the most common penalty was consistently a non-custodial penalty (excluding community-based orders such as probation and community service) – this category includes monetary orders and good behaviour orders. However, the proportion of community-based orders has increased over the 10-year data period, from 4.3 per cent of penalties in 2009–10 to 17.1 per cent of penalties in 2018–19. This increase has corresponded with a decrease in ‘other non-custodial’ orders, including monetary penalties and good behaviour bonds.

Custodial penalties have consistently been the least commonly issued in the Magistrates Courts for relevant summary offences. The use of these penalties has increased slightly, from 3.5 per cent of penalties in 2009–10 to 8.5 per cent in 2018–19.

**Figure 7-4: Type of penalties issued for relevant summary offences over time (MSO)**



Data include Magistrates Courts, adult offenders, cases sentenced from 2009–10 to 2018–19.

Source: QGSO, Queensland Treasury – Courts Database, extracted November 2019.

Notes: (1) ‘Custodial’ includes imprisonment, partially suspended sentences, wholly suspended sentences, and intensive correction orders. ‘Community-based’ includes community service and probation. ‘Other non-custodial’ includes monetary orders (including fines, restitution, and compensation), good behaviour bonds, and convicted not further punished.

(2) Includes summary offences involving the assault of a public officer: ss 790, 199, and 124(b).

### 7.2.3 Length of custodial penalties for assaults of public officers

This section provides an overview of the custodial sentencing outcomes for offences that involve the assault of a public officer. Due to the legislative amendments to the offence of serious assault over the past 10 years, the analysis in this section is divided into three categories: assaults of police officers, assaults of corrective services officers, and assaults of other public officers. The date ranges are different for each category.

Data on police officers only include offences occurring on or after 29 August 2012, as this was the date that the aggravated serious assault of a police officer was introduced. Similarly, data on serious assault of a public officer has been analysed from the date that aggravating circumstances were introduced for the serious assault of a public officer – 5 September 2014. For corrective services officers, the analysis is based on the full 10-year data period from 2009–10 to 2018–19.

## Police officers

Table 7-1 shows the proportion of custodial penalties ordered for different types of assault offences committed on police officers. It includes offences committed on or after 29 August 2012.

In the higher courts, almost all cases involving the aggravated serious assault of a police officer resulted in a custodial penalty (94.9%), with assaults involving bodily fluids receiving the highest proportion of custodial penalties (97.0% of cases). For non-aggravated serious assaults of police officers, four in five cases resulted in a custodial penalty (79.1%), with an average sentence of 12 months.

In the Magistrates Courts, half of all non-aggravated serious assaults of a police officer resulted in a custodial penalty (52.6%), with an average custodial length of 0.6 years. For cases involving aggravating circumstances, three-quarters of cases resulted in a custodial penalty (75.9%), with a higher average sentence length of 0.7 years.

Offenders sentenced under section 790(1)(b) of the PPRA for the obstruction of a police officer were unlikely to receive a custodial penalty, with only 4.0 per cent of cases (in the Magistrates Courts) resulting in a custodial outcome (MSO). For cases involving the assault of a police officer under section 790(1)(a) of the PPRA, a custodial outcome was more likely, with 14.4 per cent of cases resulting in a custodial sentence.

**Table 7-1: Sentencing outcomes for assault of a police officer by assault type (MSO), adult offenders**

Section number	Offence description	N (MSO)	Proportion of sentences that are custodial	Average length of custodial penalties (years)	Median length of custodial penalties (years)
<b>Higher courts</b>					
790(1)	Assault or obstruct police officer	7*	-	-	-
340(1)(b)	Police officer – non-aggravated	67	79.1%	1.0	0.8
<b>340(1)(b)(i/ii/iii)</b>	<b>Police officer – aggravated</b>	<b>293</b>	<b>94.9%</b>	<b>1.2</b>	<b>1.0</b>
340(1)(b)(i)	Police officer – bodily fluid	168	97.0%	0.9	0.8
340(1)(b)(ii)	Police officer – bodily harm	88	92.0%	1.3	1.0
340(1)(b)(iii)	Police officer – armed	37	91.9%	2.1	2.0
<b>Magistrates Courts</b>					
790(1)(a)	Assault police officer	3,369	14.4%	0.3	0.3
790(1)(b)	Obstruct police officer	10,950	4.0%	0.2	0.2
340(1)(b)	Police officer – non-aggravated	1,219	52.6%	0.6	0.5
<b>340(1)(b)(i/ii/iii)</b>	<b>Police officer – aggravated</b>	<b>1,564</b>	<b>75.9%</b>	<b>0.7</b>	<b>0.5</b>
340(1)(b)(i)	Police officer – bodily fluid	822	82.4%	0.6	0.5
340(1)(b)(ii)	Police officer – bodily harm	443	69.1%	0.7	0.7
340(1)(b)(iii)	Police officer – armed	299	68.2%	0.7	0.5

Data include adult offenders, offences occurring on or after 29 August 2012, cases sentenced from 2012–13 to 2018–19.

Source: QGSO, Queensland Treasury – Courts Database, extracted November 2019.

Notes: (1) A small proportion of cases sentenced under s 790 were not included as it was unclear whether they involved an assault or an obstruction (n=427).

(\*) Small sample sizes

## Corrective services officers

Table 7-2 shows the proportion of custodial penalties ordered for offenders who assaulted a corrective services officer. Section 7.4 of this chapter explores the number of these custodial penalties that were to be served cumulatively on top of an existing custodial sentence.

In the higher courts, all offenders (n=35; 100.0%) sentenced for the serious assault of a corrective services officer under section 340(2) of the *Criminal Code* (MSO) received a custodial penalty, with an average length of 0.9 years. In the Magistrates Courts, almost all offenders sentenced for serious assault received a custodial penalty (n=167; 94.0%), with an average sentence length less than the higher courts at 0.7 years.

Almost all cases involving the assault or obstruction of a corrective services officer under section 124(b) were sentenced in the Magistrates Courts. Of these, 83.8 per cent received a custodial penalty with an average length of 0.2 years.

**Table 7-2: Sentencing outcomes for assault of a corrective services officer by assault type (MSO), adult offenders**

Section number	Offence description	N (MSO)	Proportion of sentences that are custodial	Average length of custodial penalties (years)	Median length of custodial penalties (years)
<b>Higher courts</b>					
124(b)	Assault/obstruct corrective services staff	1*	-	-	-
340(2)	Corrective services officer	35	100.0%	0.9	0.8
<b>Magistrates Courts</b>					
124(b)	Assault/obstruct corrective services staff	80	83.8%	0.2	0.3
340(2)	Corrective services officer	167	94.0%	0.7	0.5

Data include adult offenders, cases sentenced from 2009–10 to 2018–19.

Source: QGSO, Queensland Treasury – Courts Database, extracted November 2019.

Note: (\*) Small sample sizes

## Public officers

Table 7-3 shows the sentencing outcomes for different offences involving the assault of a public officer, for offences committed on or after 5 September 2014.

In the higher courts, due to the small number of cases sentenced, there are few offences that can be analysed. Custodial penalties were issued for the majority of offenders who were sentenced for aggravated serious assault of a public officer (85.7%), with an average sentence length of 0.7 years.

In the Magistrates Courts, 73.1 per cent of offenders sentenced for the aggravated serious assault of a public officer received a custodial penalty, with an average length of 0.6 years. Non-aggravated serious assault and the serious assault of a person who performed, or was performing, a duty at law had similar percentages of custodial orders (52.2% and 51.5%, respectively), with an average length of 0.7 years.

**Table 7-3: Custodial sentencing outcomes for assaults against public officers (MSO), adult offenders**

Section number	Offence description	N	Proportion of sentences that are custodial	Average length of custodial penalties (years)	Median length of custodial penalties (years)
<b>Higher courts</b>					
199	Resisting public officers	0			
340(1)(c)/(d)	Performing/performed duty at law	3*	-	-	-
340(2AA)	Public officer – non-aggravated	10*	-	-	-
<b>340(2AA)(i/ii/iii)</b>	<b>Public officer – aggravated</b>	<b>35</b>	<b>85.7%</b>	<b>0.7</b>	<b>0.8</b>
340(2AA)(i)	Public officer – bodily fluid	26	88.5%	0.7	0.8
340(2AA)(ii)	Public officer – bodily harm	8*	-	-	-
340(2AA)(iii)	Public officer – armed	1*	-	-	-
<b>Magistrates Courts</b>					
199	Resisting public officers	6*	-	-	-
340(1)(c)/(d)	Performing/performed duty at law	66	51.5%	0.5	0.5
340(2AA)	Public officer – non-aggravated	228	52.2%	0.4	0.4
<b>340(2AA)(i/ii/iii)</b>	<b>Public officer – aggravated</b>	<b>171</b>	<b>73.1%</b>	<b>0.6</b>	<b>0.5</b>
340(2AA)(i)	Public officer – bodily fluid	99	78.8%	0.6	0.5
340(2AA)(ii)	Public officer – bodily harm	56	62.5%	0.6	0.5
340(2AA)(iii)	Public officer – armed	16*	-	-	-

Data include adult offenders, offences occurring on or after 5 September 2014, cases sentenced from 2014–15 to 2018–19.

Source: QGSO, Queensland Treasury – Courts Database, extracted November 2019.

Note: (\*) Small sample size

## 7.3 Detailed sentencing outcomes for assaults of public officers

### Section summary

- For adult offenders in both the higher and lower courts, imprisonment was the most common penalty type for serious assault offences analysed (MSO).
- Suspended sentences were ordered in 7.1 to 31.5 per cent of cases (MSO), depending on the type of offence.
- A monetary penalty was most common for the lesser summary offence of assaulting (48.7% of cases) or obstructing (65.2% of cases) police officers, with an average penalty amount of \$620.80 for assaults, and \$414.50 for obstructions.
- For young offenders, community-based orders (including probation and community service) were the most common type of penalty imposed for serious assaults, with an average length of 8 to 9 months for probation and 50 to 80 hours for community service.
- For the summary offence of obstructing a police officer, over half of young people were reprimanded.

Figure 7-5 and Figure 7-6 (over the page) provide a breakdown of the penalties for adult and young offenders, respectively. The cells shaded darker indicate a higher proportion of cases received this sentencing outcome. Data have been presented for offences that specifically deal with the assault of a public officer, including serious assaults, and the corresponding summary offences, where applicable. For adult offenders, some sentences of imprisonment have been displayed separately and labelled as 'immediate release'; these include sentences of imprisonment with immediate release on court ordered parole, or where the entirety of the sentence was fully served as declared pre-sentence custody, or where the defendant was sentenced to the rising of the court.

As discussed in Chapter 6, a community service order is mandatory for offences occurring in certain prescribed circumstances, which must be ordered in addition to any other sentence imposed. However, the figures presented in this section relate only to the MSO sentenced. The MSO is the offence at a court event receiving the most serious penalty, as ranked by the classification scheme used by the Australian Bureau of Statistics. For this reason, if a community service order was ordered alongside a custodial sentence, the community service order will not appear as a relevant sentencing outcome. The number of community sentencing orders reported in this section is therefore likely to be an undercount. The use of mandatory community sentencing orders is discussed in Chapter 10.

Across both the higher courts and the lower courts, imprisonment was the most common type of penalty ordered for adult offenders who committed one of the serious assault offences analysed. The proportion was highest for the serious assault of a corrective services officer, where 92.9 per cent of cases in the higher courts, and 85.6 per cent of cases in the lower courts resulted in an unsuspended term of imprisonment. Section 7.4 of this chapter explores the number of these custodial penalties that resulted in a cumulative penalty.

A suspended sentence of imprisonment was ordered in 7.1 per cent to 31.5 per cent of cases, depending on the type of offence. The serious assault of a corrective services officer was the least likely to result in a suspended sentence (7.8% in the Magistrates Courts, 7.1% in the higher courts). The serious assault of a public officer or a police officer with circumstances of aggravation was the most common offence to result in a suspended sentence – in many cases these were partially suspended sentences, with time served in prison. The Council has previously flagged shortcomings in the administrative data, which mean that some sentences recorded as being ‘wholly suspended’ may instead be partially suspended – often where time served on remand is declared as time served and the sentence is suspended from the date of sentence. For this reason, the numbers of sentences involving actual time being served in custody may in fact be higher.

A community-based sentence (either a probation order or community service order) was most commonly ordered in the lower courts for the summary offence of assaulting a police officer (28.3%), or for non-aggravated serious assault of a police officer (30.4%) or a public officer (25.9%).

A monetary penalty was most commonly imposed in the lower courts for the summary offences of obstructing a police officer (65.2%) or assaulting a police officer (48.7%).

## **Young people**

Due to the small number of young offenders sentenced in the higher courts (n=21, 2.4%), the data from the lower courts and higher courts are reported together in this section.

A detention order was used more frequently for serious assaults of public officers (30.0% non-aggravated, 38.5% bodily fluid, 28.6% bodily harm) than for serious assaults of police officers (17.5% non-aggravated, 12.7% bodily fluid, 21.8% bodily harm, 16.7% armed). As was discussed in section 3.2.1 of Chapter 3, the majority of public officers assaulted by young people are detention centre workers, which explains the higher proportion of custodial penalties.

Community-based orders were the most common penalty for young people who committed a serious assault. Probation was the most frequently used penalty for the serious assault of both police officers and public officers.

The summary offence of obstructing a police officer most frequently resulted in a reprimand (56.6%); whereas the offence of assaulting a police officer was considerably lower (27.5%) and had a higher proportion of custodial and community-based sentences.



Figure 7-5: Type of penalties issued for relevant offences by assault type (MSO), adult offenders

		Imprisonment (Immediate release)					Partially suspended			Intensive correction order		Community service		Good behaviour, recognisance		Convicted, not further punished	
		Imprisonment					Wholly suspended			Probation		Monetary					
Section	Offence	N	Custodial penalties					Non-custodial penalties									
<b>Magistrates Courts</b>																	
340(1)(b)	Serious assault - Police officer (non-aggravated)	869	12.5%	19.4%	2.8%	14.5%	2.1%	12.0%	18.4%	16.6%	1.4%	0.3%					
340(1)(b)(i)	Serious assault - Police officer (bodily fluid)	575	26.3%	26.4%	4.2%	23.5%	1.7%	5.2%	9.7%	3.0%	0.0%	0.0%					
340(1)(b)(ii)	Serious assault - Police officer (bodily harm)	325	23.1%	22.5%	2.8%	18.5%	0.9%	11.1%	13.2%	7.1%	0.3%	0.6%					
340(1)(b)(iii)	Serious assault - Police officer (armed)	209	20.6%	28.7%	1.9%	15.3%	1.0%	5.3%	21.5%	5.3%	0.5%	0.0%					
340(2)	Serious assault - Corrective services officer	90	66.7%	18.9%	2.2%	5.6%	0.0%	0.0%	1.1%	3.3%	0.0%	2.2%					
340(2AA)	Serious assault - Public officer (non-aggravated)	228	10.1%	18.4%	3.1%	20.6%	0.0%	11.4%	14.5%	17.5%	3.9%	0.4%					
340(2AA)(i)	Serious assault - Public officer (bodily fluid)	99	26.3%	33.3%	6.1%	12.1%	1.0%	4.0%	11.1%	5.1%	1.0%	0.0%					
340(2AA)(ii)	Serious assault - Public officer (bodily harm)	56	21.4%	23.2%	1.8%	16.1%	0.0%	7.1%	25.0%	3.6%	1.8%	0.0%					
340(2AA)(iii)	Serious assault - Public officer (armed)	16	31.3%	18.8%	12.5%	12.5%	0.0%	0.0%	18.8%	6.3%	0.0%	0.0%					
124(b)	Assault or obstruct corrective services staff	50	34.0%	30.0%	2.0%	18.0%	0.0%	0.0%	0.0%	8.0%	0.0%	8.0%					
790(1)(a)	Assault police officer	2,232	2.5%	4.7%	0.4%	6.4%	0.2%	16.8%	11.4%	48.7%	7.5%	1.3%					
790(1)(b)	Obstruct police officer	7,251	0.9%	1.4%	0.1%	2.0%	0.0%	15.3%	2.0%	65.2%	9.1%	4.0%					
655A	Assault or obstruct watch-house officer	6*	-	-	-	-	-	-	-	-	-	-					
199	Resisting public officers	6*	-	-	-	-	-	-	-	-	-	-					
<b>Higher courts</b>																	
340(1)(b)	Serious assault - Police officer (non-aggravated)	34	20.6%	38.2%	2.9%	14.7%	0.0%	5.9%	14.7%	0.0%	2.9%	0.0%					
340(1)(b)(i)	Serious assault - Police officer (bodily fluid)	111	18.0%	45.0%	11.7%	19.8%	2.7%	0.9%	0.9%	0.0%	0.9%	0.0%					
340(1)(b)(ii)	Serious assault - Police officer (bodily harm)	58	25.9%	44.8%	5.2%	10.3%	3.4%	3.4%	6.9%	0.0%	0.0%	0.0%					
340(1)(b)(iii)	Serious assault - Police officer (armed)	23	34.8%	39.1%	8.7%	8.7%	0.0%	0.0%	8.7%	0.0%	0.0%	0.0%					
340(2)	Serious assault - Corrective services officer	14	64.3%	28.6%	7.1%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%					
340(2AA)	Serious assault - Public officer (non-aggravated)	10	30.0%	20.0%	0.0%	30.0%	0.0%	10.0%	10.0%	0.0%	0.0%	0.0%					
340(2AA)(i)	Serious assault - Public officer (bodily fluid)	26	11.5%	50.0%	7.7%	19.2%	0.0%	3.8%	3.8%	0.0%	3.8%	0.0%					
340(2AA)(ii)	Serious assault - Public officer (bodily harm)	8*	-	-	-	-	-	-	-	-	-	-					
340(2AA)(iii)	Serious assault - Public officer (armed)	1*	-	-	-	-	-	-	-	-	-	-					
124(b)	Assault or obstruct corrective services staff	0	-	-	-	-	-	-	-	-	-	-					
790(1)(a)	Assault police officer	0	-	-	-	-	-	-	-	-	-	-					
790(1)(b)	Obstruct police officer	5*	-	-	-	-	-	-	-	-	-	-					
655A	Assault or obstruct watch-house officer	0	-	-	-	-	-	-	-	-	-	-					
199	Resisting public officers	0	-	-	-	-	-	-	-	-	-	-					

Data include adult offenders, offences occurring on or after 5 September 2014, cases sentenced from 2014-15 to 2018-19. Source: QGSO, Queensland Treasury – Courts Database, extracted November 2019.

Notes: (1) 'Imprisonment (Immediate release)' includes where the defendant was immediately released on parole, or where the entirety of the sentence was served by way of declared pre-sentence custody, or those sentenced to the rising of the court.

(2) A small proportion of s 790 PPRA cases were excluded as they couldn't be classified as an assault or an obstruction (n=281).

(\*) Small sample sizes

Figure 7-6: Type of penalties issued for relevant offences by assault type (MSO), young people

**Young people**

Section	Offence	N	Custodial penalties			Non-custodial penalties						
			Detention	Boot camp order	Intensive supervision order	Community service	Probation	Monetary	Good behaviour, recognisance	Court ordered conference	Reprimand	
340(1)(b)	Police officer	114	7.9%	9.6%	0.0%	0.0%	16.7%	36.8%	0.0%	11.4%	10.5%	7.0%
340(1)(b)(i)	Police officer - bodily fluid	118	3.4%	8.5%	0.8%	0.0%	16.9%	55.1%	0.0%	9.3%	5.1%	0.8%
340(1)(b)(ii)	Police officer - bodily harm	55	10.9%	10.9%	0.0%	0.0%	10.9%	38.2%	0.0%	14.5%	14.5%	0.0%
340(1)(b)(iii)	Police officer - armed	30	16.7%	0.0%	0.0%	0.0%	26.7%	30.0%	0.0%	16.7%	3.3%	6.7%
340(2)	Corrective services officer	3*	-	-	-	-	-	-	-	-	-	-
340(2AA)	Public officer	10	20.0%	10.0%	0.0%	0.0%	10.0%	20.0%	0.0%	0.0%	10.0%	30.0%
340(2AA)(i)	Public officer - bodily fluid	39	20.5%	17.9%	0.0%	2.6%	12.8%	25.6%	0.0%	5.1%	12.8%	2.6%
340(2AA)(ii)	Public officer - bodily harm	14	14.3%	14.3%	0.0%	0.0%	14.3%	28.6%	0.0%	7.1%	21.4%	0.0%
340(2AA)(iii)	Public officer - armed	7*	-	-	-	-	-	-	-	-	-	-
124(b)	Assault or obstruct corrective services staff	0	-	-	-	-	-	-	-	-	-	-
790(1)(a)	Assault police officer	211	3.3%	5.2%	0.0%	0.0%	10.4%	19.0%	0.5%	18.0%	16.1%	27.5%
790(1)(b)	Obstruct police officer	251	0.0%	0.8%	0.4%	0.0%	7.6%	4.8%	1.6%	21.1%	7.2%	56.6%
655A	Assault or obstruct watch-house officer	0	-	-	-	-	-	-	-	-	-	-
199	Resisting public officers	0	-	-	-	-	-	-	-	-	-	-

Data include lower and higher courts, young offenders, offences occurring on or after 5 September 2014, cases sentenced from 2014-15 to 2018-19.

Source: QGSO, Queensland Treasury – Courts Database, extracted November 2019.

Notes: (1) Boot camp orders were introduced on 31 January 2013 and were repealed from 1 July 2016. The orders were available in a limited number of geographic locations.

(2) A small proportion of s 790 PPRA cases were excluded as they couldn't be classified as an assault or an obstruction (n=22).

(\*) Small sample sizes

### 7.3.1 Sentence length and fine amount for relevant offences

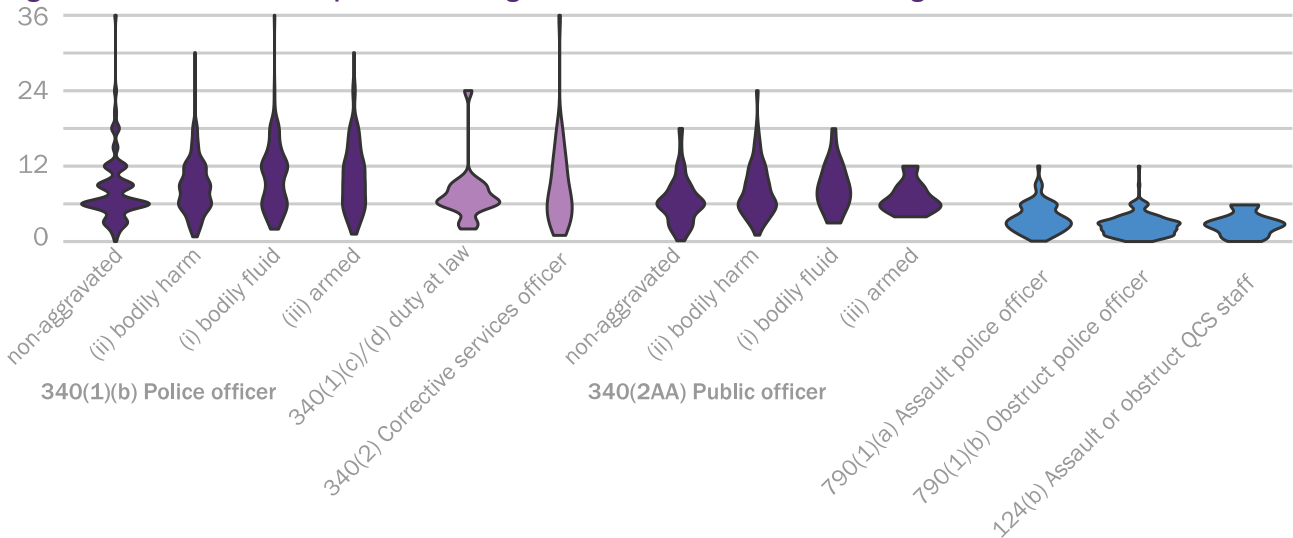
Table A4-13 in Appendix 4 details the sentence lengths and, where relevant, fine amounts for adults who were sentenced for serious assault of a public officer and relevant summary offences.

In the higher courts, the average imprisonment sentence varied considerably. The longest average imprisonment sentence was 29.6 months for the armed serious assault of a police officer, with a maximum sentence of 5 years for this offence. Serious assault of a police officer, which caused bodily harm, was also relatively high, with an average of 17.5 months' imprisonment. Other forms of serious assault sentenced in the higher courts averaged about 12 months' imprisonment.

Due to the higher volume of cases sentenced, it was possible to visualise the distribution of imprisonment sentences in the Magistrates Courts – see Figure 7-7 below. The dark purple shapes, which represent the serious assault of a police officer or a public officer, illustrate that cases with circumstances of aggravation generally receive longer penalties. The serious assault of a police officer with bodily harm or while armed received, on average, the longest imprisonment sentences (10.1 months and 10.3 months, respectively), whereas the non-aggravated assault of a police officer received 8.0 months' imprisonment, on average. Similarly, the serious assault of a public officer with bodily harm or bodily fluid received, on average, 8.6 months' and 8.1 months' imprisonment, respectively – somewhat higher than the 6.4 months' average imprisonment sentenced for the non-aggravated serious assault.

The serious assault of a corrective services officer received an average of 8.8 months' imprisonment, which was relatively high compared with serious assaults of public officers and police officers. The summary offences of assaulting or obstructing a police officer or a corrective services officer all received sentences of less than one year, averaging 3.7 months, 2.6 months, and 2.9 months, respectively – see Table A4-13 in Appendix 4.

**Figure 7-7: Distribution of imprisonment lengths for relevant offences in the Magistrates Courts**



Data include adult offenders, MSO, Magistrates Courts, offences occurring on or after 5 September 2014, cases sentenced from 2014–15 to 2018–19.

Source: QGSO, Queensland Treasury – Courts Database, extracted November 2019.

As discussed above, community service orders were not used very frequently compared to other types of penalties. The summary offence of assaulting a police officer resulted in, on average, 61.7 hours of community service, which was slightly higher than the offence of obstructing a police officer, which itself resulted in 45.5 hours of community service on average – slightly higher than the legislative minimum penalty of 40 hours. Where community service was ordered for a serious assault, the penalties were higher on average. Non-aggravated serious assault resulted in an average of 85.0 hours for police officers, and 88.3 hours for public officers. Aggravated serious assaults had longer penalties again, with an average length of over 100 hours for all types of aggravated serious assault.

Monetary penalties were most commonly used for the summary offences of assaulting or obstructing a police officer. Under section 790, the maximum penalty is a fine of \$5,338 (40 penalty units) or 6 months’ imprisonment – this is increased to a fine of \$8,007 (60 penalty units) or 12 months’ imprisonment if the offence is committed within, or in the vicinity of, licensed premises. The average offender was required to pay \$620.80 for assaulting and \$414.50 for obstructing a police officer. Monetary penalties were not common for serious assault; however, the small proportion of cases that did receive a fine resulted in average amounts of \$730 to \$1,500, depending on the category of serious assault – with a maximum penalty of \$6,800.

Table A4-14 in Appendix 4 contains a breakdown of the sentence lengths and fine amounts for young offenders. It should be read in conjunction with Figure 7-6 earlier in this chapter, which showed the proportion of each type of penalty sentenced.

When the number of young people sentenced for assaulting a public officer is broken down by offence and penalty type, the number of cases is relatively small. Many of the categories in Table 7-5 have been flagged as having a small number of cases, and caution is advised when interpreting the results.

On average, when a young person was sentenced to detention for a serious assault, they received approximately 5 months’ detention, with some variation based on the type of serious assault. The aggravated serious assault of a public officer under section 340(2AA) received longer penalties, averaging 9.1 months of detention. For young people who were sentenced to detention but were immediately released into a structured program with strict conditions (a conditional release order), the sentence length was, on average, a little less than three years for aggravated serious assaults.

The length of community service orders varied considerably depending on the type of offence charged. The obstruction of a police officer resulted in the shortest community service orders, with an average of 28.2 hours. The summary offence of assaulting a police officer resulted in longer orders at 46.6 hours on average. The non-aggravated serious assault of a police officer had similar penalty lengths, at 51.1 hours on average. The aggravated serious assault of a police officer or a public officer ranged from an average of 57.5 hours (serious assault of a police officer with bodily fluid) to 81.7 hours (serious assault of a police officer with bodily harm) – however, the sample sizes in some of these categories were small.

Probation was one of the most commonly used orders for young people who assaulted a public officer. Serious assaults of police officers ranged from an average of 8.3 months for non-aggravated offences up to an average of

9.7 months for armed serious assaults. The summary offences of assaulting or obstructing a police officer had shorter probation sentences, with an average of 7.2 months for assaulting a police officer and 6.7 months for obstructing a police officer.

## 7.4 Cumulative penalties for assaults of corrective services officers

**Section summary**

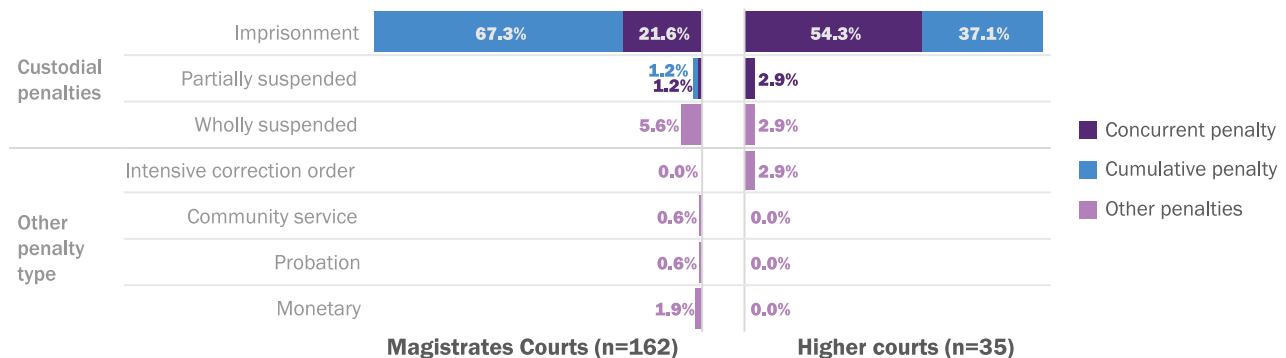
- In the Magistrates Courts, over two-thirds of sentences for serious assault of a corrective services officer sentenced under section 340(2) of the *Criminal Code* were ordered to be served cumulatively (one after the other) (68.5% of cases). In the higher courts, this figure was lower at 37.1 per cent of cases.
- For the summary offence of assaulting or obstructing a corrective services officer under section 124(b) of the CSA, 47.2 per cent of sentences were cumulative terms of imprisonment.

If a prisoner is serving a term of imprisonment, or has been released on parole, then in some situations any additional sentence of imprisonment must be served cumulatively (one after the other) with any other term of imprisonment that person is liable to serve. This applies to offenders convicted of a listed offence (or of counselling, procuring, attempting or conspiring to commit it), including wounding, AOBH, serious assault, GBH, torture, and acts intended to cause GBH and other malicious acts.<sup>2</sup>

While a cumulative penalty is mandatory for serious assault offences committed while a person is serving a term of imprisonment (including where released on parole),<sup>3</sup> this can only be applied if the offender is serving, or liable to serve, a term of imprisonment for a different offence. Figure 7-8 shows that, in the higher courts, over one-third of cases sentenced for serious assault of a corrective services officer (MSO) received a cumulative prison sentence. A further 60 per cent received a concurrent prison sentence, either time to be served or suspended, and 2.9 per cent received an intensive correction order.

In the Magistrates Courts, over two-thirds of cases sentenced for serious assault of a corrective services officer (MSO) received a cumulative prison sentence, a much higher proportion than in the higher courts, where 37.1 per cent of penalties were cumulative. This may be because cases progress faster in the lower courts, increasing the likelihood of the offender still serving an earlier imposed prison sentence at the time of being sentenced for the offence. A further 28.4 per cent received a (concurrent) custodial penalty, primarily a prison sentence to be served, and 3.1 per cent received a non-custodial penalty.

**Figure 7-8: Cumulative penalties for s 340(2) serious assault or obstruct corrective services officer (MSO)**



Data include adult offenders, MSO, sentenced 2009–10 to 2018–19.

Source: QGSO, Queensland Treasury – Courts Database, extracted November 2019.

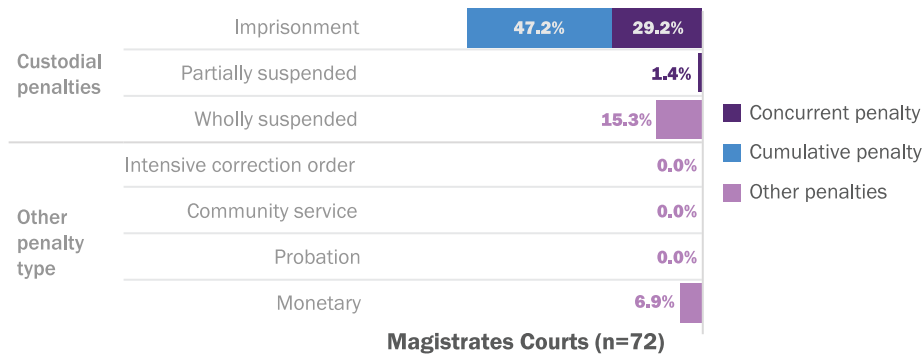
<sup>2</sup> *Penalties and Sentences Act 1992* (Qld) s 156A and Schedule 1.

<sup>3</sup> *Ibid* s 156A.

As shown in Figure 7-9, in the Magistrates Courts nearly half (47.2%) of cases sentenced for assaulting or obstructing a corrective services staff member (MSO; s 124(b)) received a cumulative prison sentence. A further 45.9 per cent received a concurrent prison sentence, primarily an imprisonment sentence with time served (29.2%). A small proportion (6.9%) received a monetary penalty.

Only one case that was sentenced in the higher courts for assaulting or obstructing a corrective services staff member (MSO) received a cumulative prison sentence (has not been presented in Figure 7-9).

**Figure 7-9: Cumulative penalties for s 124(b) assault or obstruct corrective services staff (MSO), Magistrates Court**



Data include adult offenders, MSO, Magistrates Courts, sentenced 2009–10 to 2018–19.  
Source: QGSO, Queensland Treasury – Courts Database, extracted November 2019.

## 7.5 Impact of introduction of statutory circumstances of aggravation on sentencing

### Section summary

- It is difficult to tell whether penalties for the same type of offending increased following the introduction of aggravating factors that carry a higher 14-year maximum penalty, due to a lack of data recorded on the circumstances of offending for offences prior to the legislative amendments.
- The introduction of the aggravating factors does appear, however, to have had an effect, with offences with aggravating circumstances receiving increased sentences compared to orders made prior to these legislative amendments. Non-aggravated offences, on the other hand, attracted lower penalties following the amendments.
- There was no change in sentencing outcomes for young offenders following the legislative amendments.

From 29 August 2012 (for police officers) it became a statutory circumstance of aggravation to assault a police officer by biting, spitting on, throwing at, or applying bodily fluid or faeces to, or causing bodily harm to a police officer or, at the time of the assault, being or pretending to be armed – with the maximum penalty for a serious assault committed in these circumstances being 14 years’ imprisonment. The same circumstances of aggravation and associated maximum penalty were introduced for public officers from 5 September 2014. For juvenile offenders the maximum penalty for the aggravated form of the offence is instead 7 years’ detention. The maximum penalty is 3.5 years’ detention for a non-aggravated serious assault committed by a child (but only if the child is before a higher court). In the lower courts, a jurisdictional limit of one year’s detention applies, for any offence.<sup>4</sup>

For a discussion on the number of cases sentenced under these provisions, refer to section 4.6 of Chapter 4.

Table 7-4 compares the penalties issued for the serious assault of a police officer (MSO) prior to the introduction of these statutory circumstances of aggravation, to the penalties issued following the introduction of these changes.

In the Magistrates Courts, prior to the introduction of this new aggravated form of serious assault, just over half of adult offenders (52.3%) received a custodial penalty for serious assault of a police officer, with an average sentence length of 0.5 years. When statutory aggravating circumstances were introduced, penalties for cases without

<sup>4</sup> See *Youth Justice Act 1992 (Qld)* s 176 regarding the 7-year maximum penalty. This can only be imposed by a judge, not a magistrate. See s 175 regarding the 3.5-year maximum regarding serious assault simpliciter offences (if the sentence is imposed by a judge) and 1-year maximum penalty available to magistrates generally. The differences in sentencing juvenile offenders are discussed in Chapter 6.

aggravating circumstances remained relatively unchanged. Cases with aggravating circumstances, however, were more likely to receive a custodial penalty with over three-quarters resulting in a custodial sentence (77.9%) – representing an almost 50 per cent increase in the use of custodial penalties (48.9%) – and to attract slightly longer sentences at 0.7 months, on average.

In the higher courts, prior to the introduction of the statutory aggravating circumstances, 85.7 per cent of offenders received a custodial sentence with an average penalty length of 0.8 years. Following the introduction of the aggravating circumstances, cases that did not have aggravating circumstances resulted in slightly lower penalties, with 80.0 per cent of these cases resulting in a custodial penalty, with an average length of 1.0 years. Almost all cases sentenced that had a circumstance of aggravation resulted in a custodial sentence (95.5%), and the average penalty length was longer at 1.2 years.

**Table 7-4: Custodial sentences for serious assaults against police officers (MSO) before and after the introduction of aggravating circumstances, adult offenders**

Type of serious assault of a police officer – s 340(1)(b)	2009-10 to 2011-12		2013-14 to 2015-16	
	% custodial	Avg length (years)	% custodial	Avg length (years)
<b>Higher courts</b>				
Prior to aggravating circumstances (n=252)	85.7	0.8		
Non-aggravated (n=30)			80.0	1.0
Aggravated (n=132)			95.5	1.2
<b>Magistrates Courts</b>				
Prior to aggravating circumstances (n=905)	52.3	0.5		
Non-aggravated (n=580)			55.6	0.5
Aggravated (n=738)			77.9	0.7

Data include adult offenders, MSO.

Data exclude 55 cases where the offence occurred prior to 29 August 2012 but was sentenced in 2013-14 or later (32 cases in the Magistrates Courts and 23 cases in the higher courts).

Source: QGSO, Queensland Treasury – Courts Database, extracted November 2019.

While the figures above suggest that the introduction of aggravating circumstances has led to an increase in the use of custodial penalties and longer terms of imprisonment being imposed, it is not possible to identify with any certainty the extent to which sentences increased for those offences with aggravating features by comparing sentencing outcomes before and after the commencement of these changes. This is because, prior to these changes coming into effect, the acts of biting, spitting on, or throwing or applying a bodily fluid or faeces, whether or not the victim suffered bodily harm, and the presence of a dangerous or offensive weapon or instrument were not separately identified under the offence provision, and therefore not recorded for statistical reporting purposes. The sentencing outcomes for cases with these aggravating features is therefore unknown.

Further, it is possible that the creation of these new statutory circumstances of aggravation carrying a higher maximum penalty may have resulted in some cases that would previously have been charged as an AOBH, for example, instead resulting in charges being brought under section 340(1)(b) – thereby affecting the overall seriousness of offences sentenced. The preferring of charges of serious assault would seem to be supported by the increasing number of cases sentenced following the introduction of the new aggravated form of serious assault – 1,157 in the three years 2009-10 to 2011-12, compared with 1,480 in the three years from 2013-14, representing a 28 per cent increase – see also Figure 4-10 in Chapter 4 for trends on the increased use of section 340(1)(b) following the introduction of aggravating circumstances.

For juvenile offenders, the introduction of statutory circumstances of aggravation had no effect on sentencing outcomes in the lower courts, with minimal change in the proportion of offenders receiving a custodial sentence and no change in the average sentence length – see Table 7-5. The sample size for juveniles sentenced in the higher courts was too small to analyse.

**Table 7-5: Custodial sentences for serious assaults against police officers (MSO) before and after the introduction of aggravating circumstances, juvenile offenders**

Type of serious assault of a police officer – s 340(1)(b)	2009–10 to 2011–12		2013–14 to 2015–16	
	% custodial	Avg length (years)	% custodial	Avg length (years)
<b>Higher courts</b>				
Prior to aggravating circumstances (n=9*)	-	-	-	-
Non-aggravated (n=2*)			-	-
Aggravated (n=10*)			-	-
<b>Lower courts</b>				
Prior to aggravating circumstances (n=118)	20.3	0.4		
Non-aggravated (n=72)			20.8	0.4
Aggravated (n=128)			19.5	0.4

Data include juvenile offenders, MSO.

Source: QGSO, Queensland Treasury – Courts Database, extracted November 2019.

Note: (\*) Small sample sizes

Table 7-6 compares the penalties issued for the serious assault of a public officer (MSO) prior to the introduction of aggravating circumstances, to the penalties issued following the introduction of aggravating circumstances.

In the Magistrates Courts, prior to the introduction of aggravating circumstances, a custodial sentence was given to over half (58.5%) of adults sentenced for the serious assault of a public officer under section 340(2AA). Following the introduction of aggravating circumstances, cases that did not have any aggravating circumstances had a lower rate of custodial penalties (49.4%), and cases that had aggravating circumstances had a higher rate (75.2%). There was little difference in the average length of custodial sentences before and after the introduction of aggravating circumstances; however, cases with aggravating circumstances had slightly longer custodial sentences on average (0.5 years where non-aggravated, compared with 0.6 years where aggravated).

For the same reasons discussed above, it is difficult to identify what the true impacts of these changes have been, although it seems clear that courts are more likely to impose custodial penalties for serious assault with aggravating circumstances, and to impose slightly longer sentences.

In the higher courts, there were not enough sentenced cases under section 340(2AA) to perform reliable analysis. Similarly, there were not enough cases involving young offenders to perform reliable analysis.

**Table 7-6: Custodial sentences for assault against public officers (MSO) before and after the introduction of aggravating circumstances, adult offenders**

Type of serious assault of a public officer – s 340(2AA)	2011–12 to 2013–14		2015–16 to 2017–18	
	% custodial	Avg length (years)	% custodial	Avg length (years)
<b>Higher courts</b>				
Prior to aggravating circumstances (n=14*)	-	-	-	-
Non-aggravated (n=7*)			-	-
Aggravated (n=27*)			-	-
<b>Magistrates Courts</b>				
Prior to aggravating circumstances (n=130)	58.5	0.5		
Non-aggravated (n=154)			49.4	0.5
Aggravated (n=113)			75.2	0.6

Data include adult offenders, MSO.

Data exclude 8 cases where the offence occurred prior to 5 September 2014 but was sentenced in 2015 -16 or later (6 in the Magistrates Courts and 2 in the higher courts).

Source: QGSO, Queensland Treasury – Courts Database, extracted November 2019.

Note: (\*) Small sample sizes

## 7.6 Sentencing outcomes by demographic groups

### Section summary

- There was variation in the proportion of custodial penalties based on gender and Indigenous status.
- Aboriginal and Torres Strait Islander men were the most likely to receive a custodial penalty, with non-Indigenous women the least likely.
- Offences in the Magistrates Courts had more variation between demographic groups compared to the higher courts, perhaps suggesting a wider variation in the type of offending by demographic groups in these courts.

### Adult offenders

The following figures in this section illustrate the differences in sentencing outcomes for various demographic groups. Each shape represents a different demographic group and shows the proportion of cases that resulted in a custodial penalty. Shapes with a white centre indicate a small sample size (less than 30 cases), and caution is advised when interpreting these results.

This analysis does not control for confounding variables, such as the presence of mitigating factors (e.g. whether the defendant showed remorse, suffered from a cognitive impairment, or had no prior relevant history of offending) or aggravating factors (e.g. the degree of violence and harm caused, or whether the offence was committed while on bail). These factors have a key impact on sentencing outcomes.



Figure 7-10 shows the proportion of cases that received custodial penalties for relevant serious assaults by gender and Aboriginal and Torres Strait Islander status (adults, MSO).

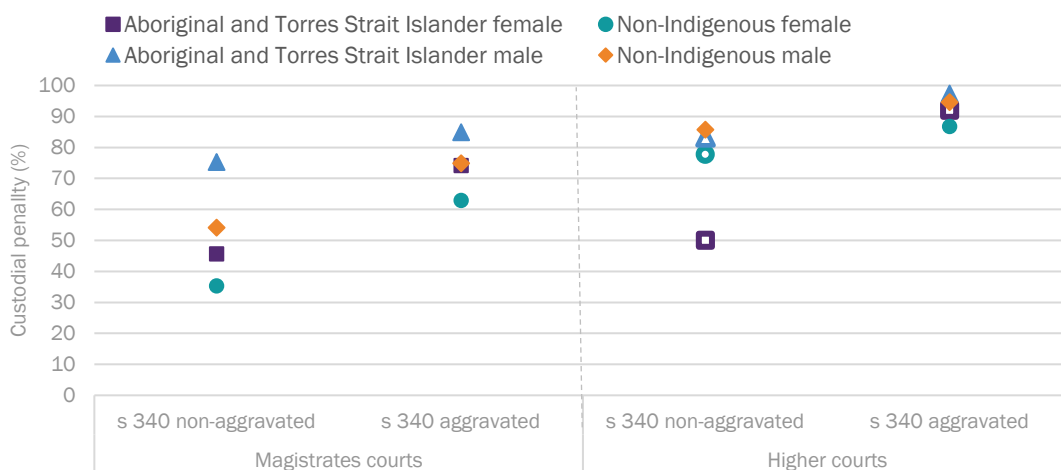
In the Magistrates Courts, Aboriginal and Torres Strait Islander men are consistently the most likely to receive a custodial sentence – this gap is especially wide for non-aggravated serious assaults. Non-Indigenous women are consistently the least likely to receive a custodial penalty. Men were more likely to receive a custodial penalty compared to women. There was a lot more variation between demographic groups in the Magistrates Courts compared to the higher courts, potentially reflecting a wider variation in the type of offending by demographic groups in the Magistrates Courts.

In both the Magistrates Courts and the higher courts, there was more variation for the non-aggravated section 340 offences in terms of who received custodial penalties.

There was less variation between demographic groups in the higher courts, with all demographic groups clustering around the same place. For aggravated serious assaults, all groups were clustered around 90 per cent of cases resulting in a custodial penalty; whereas for non-aggravated serious assaults, around 80 per cent of cases received custodial penalties. Aboriginal and Torres Strait Islander women were the one outlier – receiving a custodial penalty in only 50 per cent of serious assault cases in the higher courts – although the low numbers of cases may have contributed to this finding.

The likelihood of receiving a custodial penalty increases across the figure (from left to right) for both non-Indigenous women and non-Indigenous men; whereas it remains reasonably similar for Indigenous men regardless of the offence type or court level.

**Figure 7-10: Proportion of serious assaults that resulted in a custodial penalty (MSO), by Aboriginal and Torres Strait Islander status with gender, adult offenders**



Data include adult offenders, MSO, offences on or after 5 September 2014, sentenced 2014–15 to 2018–19.

Notes:

(1) 's 340 aggravated' includes s 340(1)(b) (penalty, paras (a)(i) to (a)(iii)) and s 340(2AA) (penalty, paras (a)(i) to (a)(iii)).

(2) 's 340 non-aggravated' includes ss 340(1)(b), 340(2AA), 340(2), 340(1)(c) and 340(1)(d).

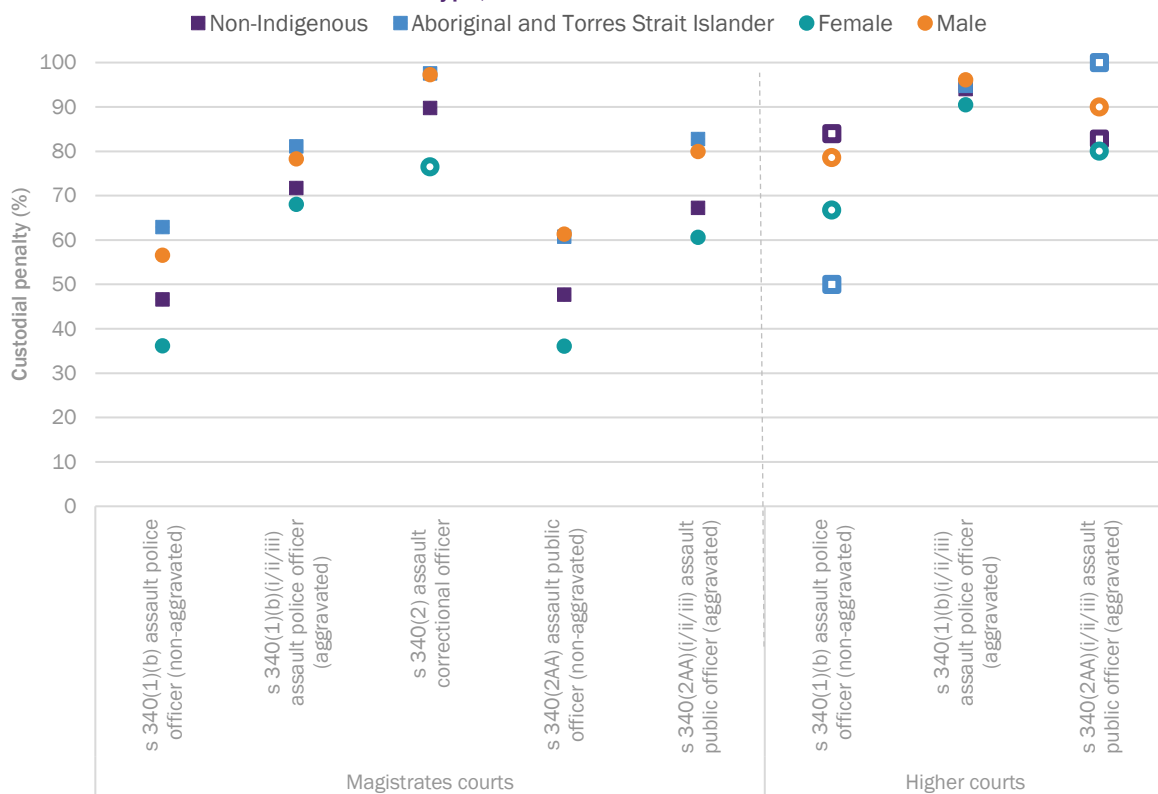
(3) A white centre on an icon indicates that the sample size for this subgroup is less than 30 and caution should be used when interpreting this result.

Figure 7-11 breaks the data down further into specific types of serious assault. Due to the small number of cases sentenced, it was not possible to break down categories by both gender and Aboriginal and Torres Strait Islander status, as displayed in the previous figure.

In the Magistrates Courts, a consistent pattern emerges. Female offenders were consistently the least likely to receive a custodial penalty, followed by non-Indigenous offenders. Aboriginal and Torres Strait Islander offenders were the most likely to receive a custodial penalty across all offence types. The proportion of custodial sentences for men was similarly high. The highest proportion of custodial penalties was for the assault of a correctional services officer. Unsurprisingly, non-aggravated serious assaults were the least likely to result in a custodial penalty across all demographic groups.

Small sample sizes were present in the higher courts, allowing limited interpretation of the data. However, aggravated serious assaults against police had little variation among demographic groups.

**Figure 7-11: Proportion of serious assaults resulting in a custodial penalty (MSO), by gender and Aboriginal and Torres Strait Islander status and offence type, adult offenders**



Data include adult offenders, MSO, offences on or after 5 September 2014, sentenced 2014–15 to 2018–19.

Notes: (1) Assault of correctional officer and assault of public officer (non-aggravated) sentenced in the higher courts have not been presented due to small sample sizes.

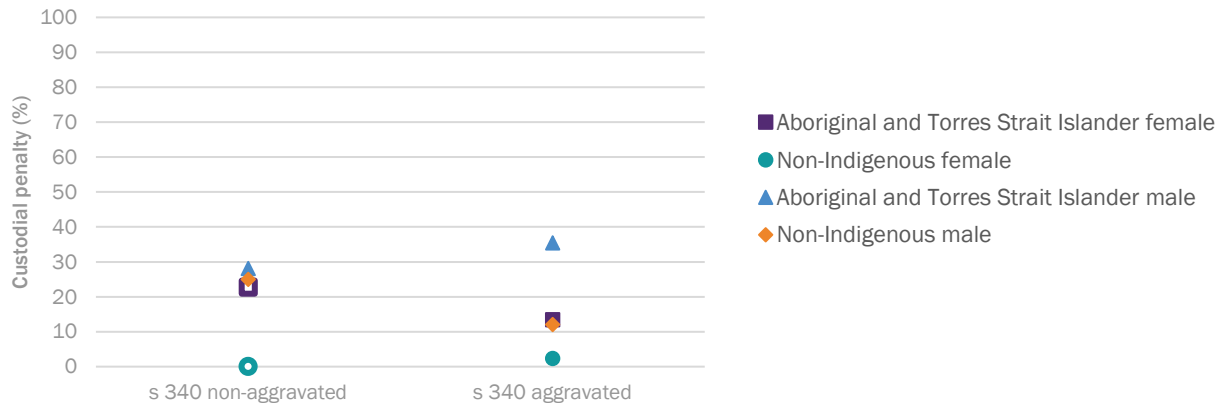
(2) A white centre on an icon indicates that the sample size for this subgroup is less than 30 and caution should be used when interpreting this result.

## Young offenders

Due to sample size limitations in the higher courts, higher and lower courts have been presented together for juvenile offenders – see Figure 7-12. The likelihood of receiving a custodial penalty was much lower for juvenile offenders than adult offenders.

Aboriginal and Torres Strait Islander men were the most likely to receive a custodial penalty for both non-aggravated and aggravated serious assaults, with non-Indigenous women the least likely.

**Figure 7-12: Proportion of serious assaults that resulted in a custodial penalty (MSO), by Aboriginal and Torres Strait Islander status with gender, juvenile offenders**



Data include juvenile offenders, MSO, offences on or after 5 September 2014, sentenced 2014–15 to 2018–19.

Notes:

(1) 's 340 aggravated' includes s 340(1)(b) (penalty, paras (a)(i) to (a)(iii)) and s 340(2AA) (penalty, paras (a)(i) to (a)(iii)).

(2) 's 340 non-aggravated' includes s 340(1)(b), s 340(2AA), s 340(2), s 340(1)(c) and s 340(1)(d).

(3) A white centre on an icon indicates that the sample size for this subgroup is less than 30 and caution should be used when interpreting this result.

(4) Higher courts and lower courts have been combined due to small sample sizes in the higher courts (non-aggravated offences n=5; aggravated offences n=19).

## 7.7 What offences are charged and sentenced for assaults of police, corrective services officers and youth detention officers?

### Section summary

- For general offence provisions under the *Criminal Code*, such as common assault or AOBH, a custodial penalty was much more likely if the victim was a public officer. However, where a custodial penalty was imposed, these penalties were generally shorter.
- Incidents involving the assault of a working corrective services officer or youth detention staff member increased considerably from 2011–12 to 2018–19. Assaults of on-duty police officers that resulted in a charge declined over the same period.
- The offence most commonly charged for assaulting a corrective services officer was serious assault of a QCS officer under section 340(2) of the *Criminal Code* (56.4% of sentenced charges), followed by the lesser summary offence of assault or obstruct working QCS staff member under section 124(b) of the CSA (20.5%).
- For assaults of staff in youth detention facilities, the most common sentenced charge was the serious assault of a public officer under section 340(2AA) of the Code (33.2%) followed by the serious assault of a person performing/performed a duty at law under sections 340(1)(c) and (1)(d) (22.1%). Common assault and AOBH were also commonly charged (14.4% and 12.2%, respectively).
- Incidents involving the assault of an on-duty police officer most commonly involved a charge of assaulting or obstructing a police officer under section 790 of the PPRA (69.4%), followed by the serious assault of a police officer under section 340(1)(b) of the Code (21.9%).

For offences such as serious assault under section 340 of the *Criminal Code*, assault or obstruction of a police officer under section 790 of the PPRA, or assault or obstruction of a corrective services officer under section 124(b) of the CSA, it can be known with certainty that the victim of the assault was a public officer. For other general criminal offences that can be charged as the result of an assault, limited information is collected by courts about the victims of assaults. If an offender is charged with an offence such as common assault, AOBH, GBH or wounding, it is not clear which cases, if any, involve victims who are working public officers.

To provide some insight into this matter, the Council requested and obtained offender-level data from the Department of Youth Justice (YJ) and QCS for all assaults of staff members that occurred within corrective services or detention facilities. Similar data were also requested and obtained from the QPS on assaults of on-duty police officers that resulted in a charge. The Council matched the data provided by these agencies to data on sentenced court cases to better understand the range of offences that are charged for offenders who assault a public officer.

Data allowing for the matching of victims across datasets could not be provided by other government agencies due to the lack of information-sharing provisions allowing for the release of this information to the Council. For this reason, the Council's analysis of the sentencing outcomes for assaults on officers employed by these other agencies is limited to sentences imposed for offences charged under section 340.

### 7.7.1 Methodology

Each agency provided data on **incidents** that involved the assault of a staff member working in a corrective or detention facility, or the assault of an on-duty police officer. These incident data were matched to data on **charges** that were finalised in Queensland courts. Each incident may be linked to more than one charge, especially where the offender has committed multiple assaults during the incident, or where an incident involves more than one offender. Similarly, each charge may be linked to more than one incident, especially where an offender was involved in more than one incident on the same day.

An incident was considered to be 'matched' if at least one charge was identified in the courts data for at least one offender who was involved in the incident. If an incident involved multiple people, the incident was considered 'matched' even if only one offender was charged.

Incidents were linked to charges by matching the date that the incident occurred (agency data) to the date that the charged offence was committed (courts data), and by matching the details of an offender from the incident to the details of the accused person in the sentenced courts data using deterministic and probabilistic methods.<sup>5</sup> When matching dates, up to two days of discrepancy was allowed between the datasets to account for administrative errors. When matching offenders, the unique identifier assigned by the QPS was used as an 'exact' deterministic match – this identifier was present in data from all agencies. Where a deterministic match could not be achieved, probabilistic-matching techniques were used. For QCS and YJ data, probabilistic-matching techniques were used to match offender names. For the QPS data, the names of offenders were not provided; instead the offender's demographic details were used to create probabilistic matches, with a manual review of other variables such as the location of the offence to verify the reliability of matches.

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<sup>5</sup> In the context of data matching, **deterministic methods** include creating relationships between entities by joining on some form of identifiable information, such as a unique identifier that has been previously verified as a true and accurate characteristic of the entity. This type of matching is generally very accurate and very fast to perform. **Probabilistic methods** are those that involve the use of statistical modelling to determine if entities with similar characteristics are, in fact, the same. For this project, probabilistic methods were generally used when a deterministic match was not able to be made, often due to missing or incomplete information recorded in the datasets provided.

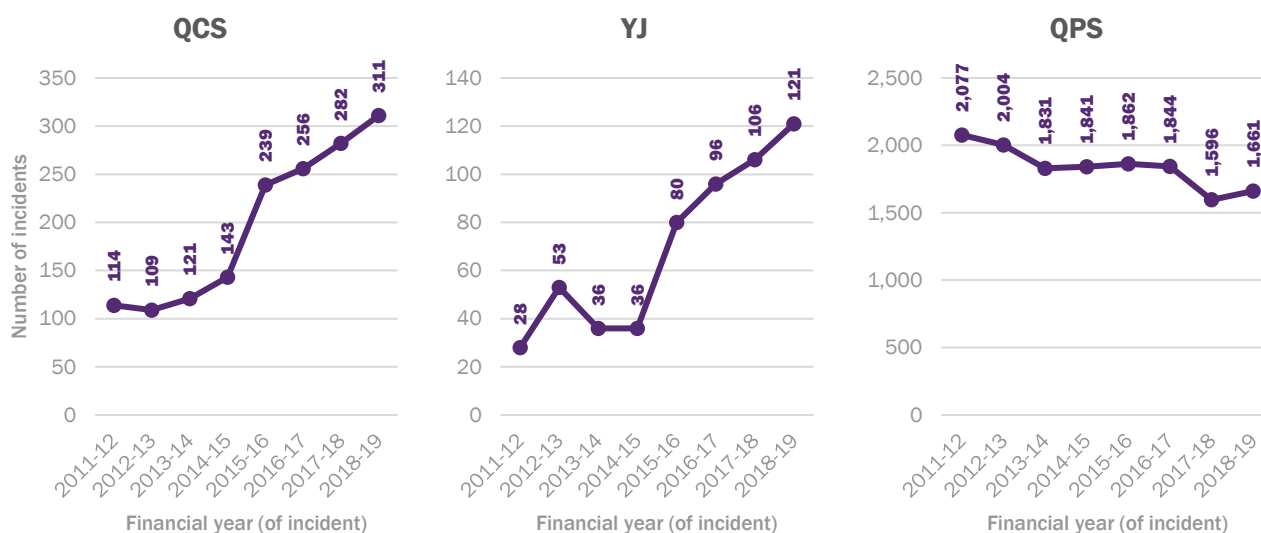
## 7.7.2 Incidents

The number of reported incidents involving the assault of a staff member in corrective services and youth detention facilities has increased from 2011–12 to 2018–19. In adult correctional facilities, the number of incidents increased from 114 to 311 incidents. Youth detention facilities saw an even more drastic increase, from 28 to 121 incidents.

The number of incidents involving the assault of an on-duty police officer (resulting in a criminal charge) has decreased, from 2,077 incidents in 2011–12 to 1,661 incidents in 2018–19.

It is important to note the numbers displayed in the figures below are not comparable between agencies. For example, there are many more QCS correctional facilities in Queensland compared to YJ youth detention centres, and there is a much larger number of the QPS officers employed across the state compared to the other agencies. There may also be differences in the way agencies classify an ‘assault’ in internal data management systems. Due to differences in counting rules, these data are not comparable with other jurisdictions.

**Figure 7-13: Number of incidents of specific categories of working public officers, 2011–12 to 2018–19**



Source: Incident data provided by individual agencies – unpublished data, 2010–11 to 2018-19.

Notes: (1) QCS and YJ data include incidents where criminal proceedings were not initiated. The QPS data include reported offences of assault that resulted in a charge.

(2) QCS incidents do not include assaults where the perpetrator was unknown (e.g. if something was thrown at an officer and the perpetrator was not identified).

## 7.7.3 Matches

Analysis of matched incidents revealed that the majority of incidents took, on average, 5 to 10 months to result in a finalised sentencing outcome. Incidents involving QCS took longer to be finalised at 10.1 months (on average), while incidents involving the QPS and YJ officers were finalised more quickly at 4.9 months and 5.8 months (on average), respectively.

The majority of cases across all agencies were finalised within two years of the date that the incident occurred – see Table 7-7. Accordingly, incidents that occurred after 30 June 2017 were excluded from this analysis, as not enough time has passed for the majority of these cases to have been finalised.

**Table 7-7: Summary statistics on time taken for incidents to be finalised**

Agency	Average months to sentence	Proportion of incidents finalised in ...		
		Less than 6 months	Less than 1 year	Less than 2 years
<b>QCS incidents</b>	10.1	36.8%	71.7%	94.4%
<b>QPS incidents</b>	4.9	73.3%	89.9%	98.1%
<b>YJ incidents</b>	5.8	64.9%	87.3%	98.8%

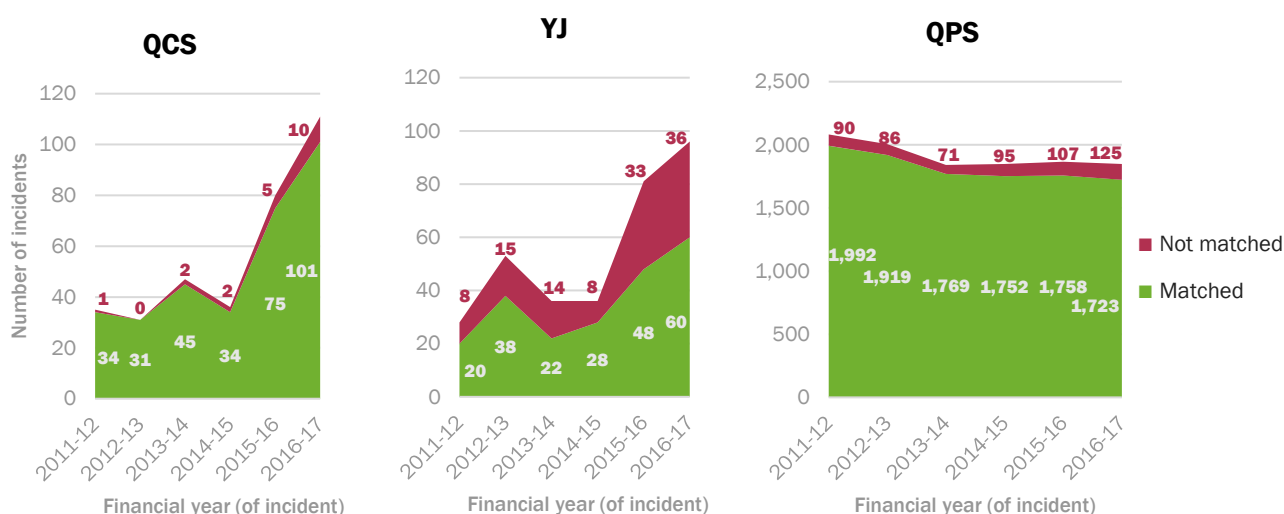
Sources: Court data: QGSO, Queensland Treasury – Courts Database, extracted November 2019. Incident data provided by individual agencies – unpublished data, 2011–12 to 2016–17.

The majority of incidents recorded by each agency were successfully matched to a sentencing event in the courts database (QCS=94.1%, YJ=65.5%, QPS=95.0%).

Data received from YJ included all incidents that involved the assault of a staff member, even where the incident did not result in a criminal charge. Incidents that were not prosecuted would, of course, not result in a sentence and so would not result in a match, which is why the proportion of unmatched cases is higher for this group. This proportion of unmatched cases was expected and does not imply that there were problems with the matching techniques.

QCS incidents that did not lead to the initiation of criminal proceedings have been excluded from the following analysis. The small number of cases that did not match in the QCS dataset was the result of two factors: either not enough information was recorded about the perpetrator in the administrative system (e.g. where the perpetrator was a visitor rather than a prisoner), or the case was ongoing and had not yet resulted in a final sentenced outcome.

**Figure 7-14: Summary of agency incidents matched to court cases**



Sources: Court data: QGSO, Queensland Treasury – Courts Database, extracted November 2019. Incident data provided by individual agencies – unpublished data, 2011-12 to 2016-17.

Note: QCS data exclude incidents that did not lead to the initiation of criminal proceedings.

### 7.7.4 Limitations

The methodology described above matches incidents (as recorded by agencies) to charges that were sentenced in court. Incidents were matched to charges by linking the offender and the date of the offence across datasets. If an offender were to assault a public officer but also on the same day commit other unrelated offences, these unrelated offences may be incorrectly linked to the charge involving the assault of a public officer. Similarly, an incident that involves the assault of a public officer may also involve the assault of other victims – in these situations, it is not possible to distinguish between the assault that involved the public officer, and the assaults of other victims that were committed by the same perpetrator on the same day.

The QPS incident data include reported offences that were classified as an assault on a prima facie basis at the time the offence was reported. In some instances, an offence that was charged as an assault by a police prosecutor might not have initially been classified as an assault – these offences are not included in this analysis. For example, a reported offence might initially be classified as ‘resist arrest, incite, hinder, obstruct police’ and would not have been included in the data extract received from the QPS, but the offence might subsequently be charged as assault of a police officer under section 790(1)(a) of the PPRA.

Through initial analysis and consultation with the QPS, it was identified that a small number of offences that were reported as an assault were missing. A small number of these offences were affected by administrative data-entry errors. Additionally, in some circumstances the victim’s status as a police officer was recorded as ‘inactive’ – these cases were not included in the extract. Advice from the QPS was that the number of affected cases was minimal and unlikely to have a significant impact on the overall number of offences.

## 7.7.5 Sentenced offences

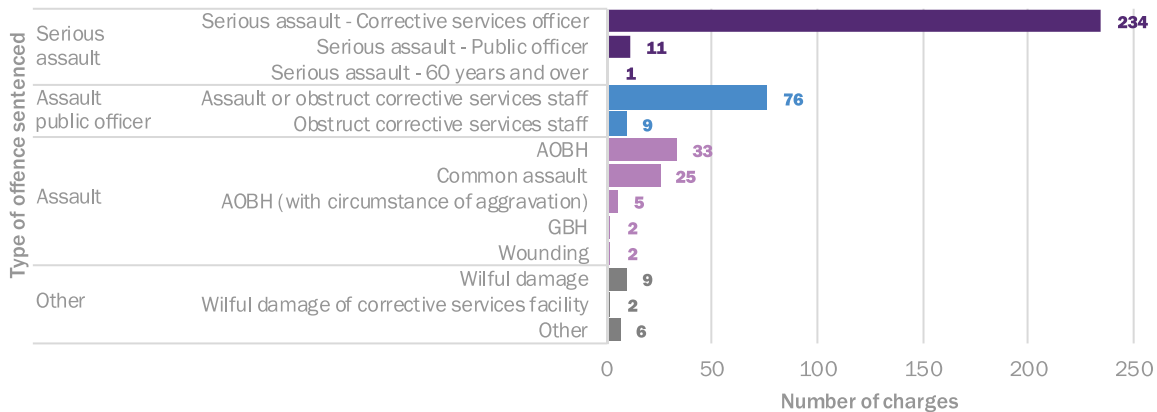
### Queensland Corrective Services

Over half of incidents that involved the assault of a working staff member in a corrective services facility resulted in a sentenced charge of serious assault (n=246, 59.3%) – see Figure 7-15. The serious assault of a corrective services officer under section 340(2) of the *Criminal Code* was the most common charge (n=234, 56.4%), although there were a small number of cases involving the serious assault of a public officer under section 340(2AA) (n=11, 2.7%), and one case involving the serious assault of a person aged 60 years and over (n=1, 0.2%).

There were 85 charges sentenced for offences that specifically dealt with the assault of a public officer (20.5%). There were 76 charges sentenced under section 124(b) of the *Corrective Services Act 2006* for assaulting or obstructing a working staff member in a corrective services facility (18.3%), and 9 charges sentenced under section 127(1) of the *Corrective Services Act 2006* for obstructing a corrective services staff member (2.2%).

There were also 67 charges sentenced for assault-related offences that were not specific to public officers (16.1%). Non-aggravated AOBH was the most common charge falling into this category, representing 33 sentenced charges (8.0%). There were 25 charges of common assault sentenced (6.0%). A small number of charges sentenced were for aggravated AOBH (n=6, 1.2%), GBH (n=2, 0.5%) and wounding (n=2, 0.5%), collectively accounting for 2.2 per cent of sentenced charges.

**Figure 7-15: Sentenced offences for assaults of working corrective services officers, 2011–12 to 2016–17**



Sources: Court data: QGSO, Queensland Treasury – Courts Database, extracted November 2019. Incident data provided by Queensland Corrective Services – unpublished data, 2011–12 to 2016–17.

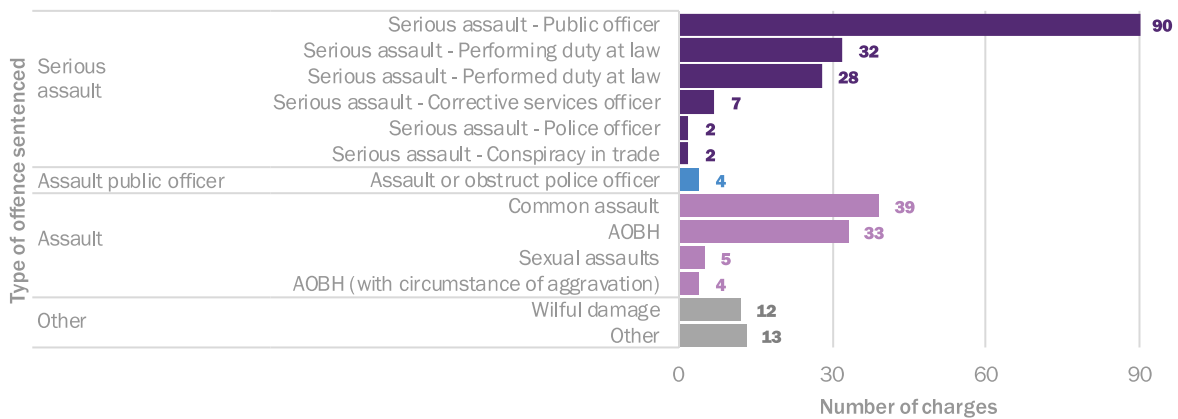
## Department of Youth Justice

Over half of sentenced charges resulting from an assault of a staff member in a youth detention facility were for the offence of serious assault (n=161, 59.4%). The most common type of serious assault sentenced was for assault, resist or wilfully obstruct a public officer under section 340(2AA) of the *Criminal Code* (n=90, 33.2%), followed by the serious assault of a person who was performing a duty at law under section 340(1)(c) with 32 sentenced charges (11.8%), or because that person had performed a duty at law under section 340(1)(d) with 28 sentenced charges (10.3%). A small number of charges involved the serious assault of a corrective services officer (n=7) or of a police officer under section 340(1)(b) (n=2).

Very few incidents resulted in summary offences being charged and sentenced involving assault or obstruction of a public officer. This could be expected given that no separate summary offence of assault or obstruct a youth justice staff member exists under the *Youth Justice Act 1992*. There were only four cases categorised as offences of this nature, all of which involved cases sentenced under section 790 of the PPRA for the assault or obstruction of a police officer.

Almost one-third of incidents resulted in a sentenced charge for a general assault-related offence (n=81, 29.9%). Common assault (n=39, 14.4%) and non-aggravated AOBH (n=33, 12.2%) were the most common offences sentenced.

**Figure 7-16: Sentenced offences for assaults of staff of youth detention facilities, 2011-12 to 2016-17**



Sources: Court data: QGSO, Queensland Treasury – Courts Database, extracted November 2019. Incident data provided by the Department of Youth Justice – unpublished data, 2011-12 to 2016-17.



## The Queensland Police Service

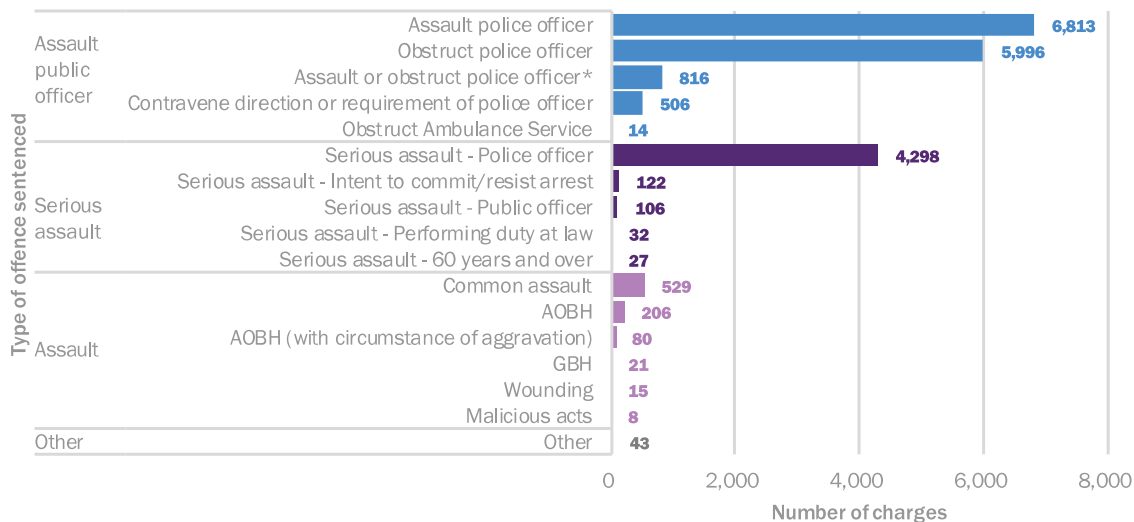
Almost three-quarters of sentenced charges resulting from an incident involving the assault of an on-duty police officer were sentenced for summary offences dealing specifically with the assault of a public officer (72.1%, n=14,154), most of which were sentenced for the assault or obstruction of a police officer under section 790 of the PPRA (n=13,625). The assault of a police officer (s 790(1)(a)) was the most common offence (34.7%, n=6,813), followed by the obstruction of a police officer (s 790(1)(b)) (30.5%, n=5,996).

A small proportion of cases were sentenced for contravening the direction or requirement of a police officer under section 791(1) of the PPRA (n=506, 2.6%). There were 14 charges sentenced for obstructing a member of the Ambulance Service under section 46(1) of the *Ambulance Service Act 1991 (Qld)* – these assaults were included in the analysis as they occurred on the same day (and possibly during the same incident) as the assault of a police officer (see the limitations section above for further details).

A charge of serious assault was sentenced for almost a quarter of offences (23.4%, n=4,585). Unsurprisingly, the serious assault of a police officer under section 340(1)(b) was the preferred charge with 4,298 sentenced offences (21.9%). Other types of serious assault were used infrequently.

There were 529 incidents that resulted in a charge of common assault (2.7%), and 286 cases that resulted in a charge of AOBH (1.5%). Due to the limitations outlined above, it is not clear whether the victim of these offences was a police officer, another victim involved in the incident, or the victim of another offence that was committed on the same day by the same perpetrator.

**Figure 7-17: Sentenced offences for assaults of on-duty police officers, 2011–12 to 2016–17**



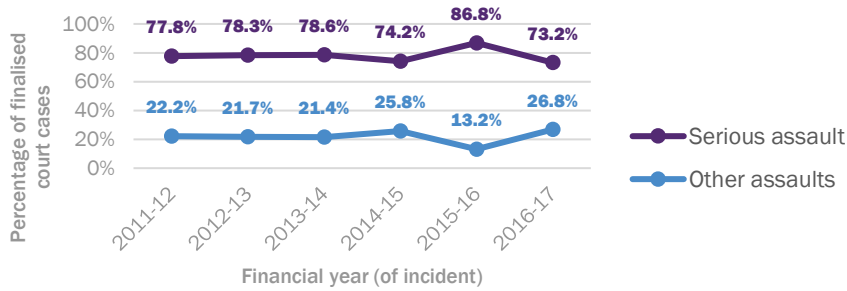
Sources: Court data: QGSO, Queensland Treasury – Courts Database, extracted November 2019. Incident data provided by the Queensland Police Service – unpublished data, 2011–12 to 2016–17.

Note: (\*) Includes cases sentenced under s 790(1) of the PPRA where it was unclear whether the charge was an assault (s 790(1)(a)) or obstruction (s 790(1)(b)).

### 7.7.6 Sentenced offences over time

Over time, the proportion of cases in which serious assault has been charged for incidents involving the assault of a corrective services officer has remained relatively stable. From 2011–12 to 2016–17 approximately three-quarters of incidents that resulted in criminal charges being laid resulted in a sentence for serious assault. In 2015–16 this number was higher than usual with 86.8 per cent of incidents resulting in a finalised serious assault charge. In the case of prisoners, the option to treat less serious assaults as a breach of discipline under the CSA and to make use of administrative sanctions may impact on these trends. This is discussed in more detail in Chapter 9.

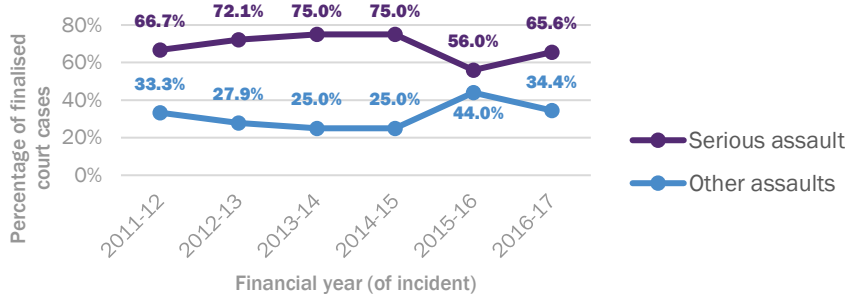
**Figure 7-18: Proportion of serious assault charges resulting from assaults in corrective services facilities, 2011–12 to 2016–17**



Sources: Court data: QGSO, Queensland Treasury – Courts Database, extracted November 2019. Incident data provided by the Queensland Police Service – unpublished data, 2011–12 to 2016–17.

The proportion of serious assaults charged in youth detention facilities was similar to the numbers coming out of adult corrective facilities, with approximately three-quarters of cases resulting in a serious assault charge in most years. There was some fluctuation in recent years, with an increasing number of common assault charges being finalised in 2015–16.

**Figure 7-19: Proportion of serious assault charges resulting from assaults in youth detention facilities, 2011–12 to 2016–17**

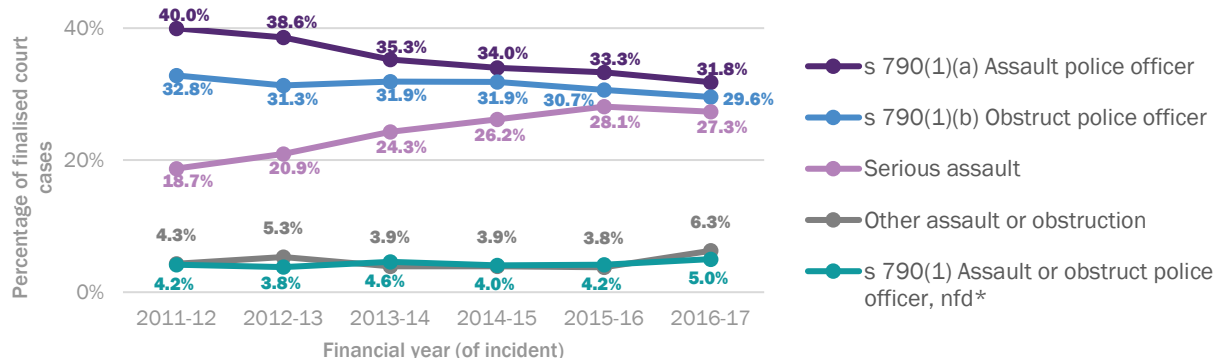


Sources: Court data: QGSO, Queensland Treasury – Courts Database, extracted November 2019. Incident data provided by the Queensland Police Service – unpublished data, 2011–12 to 2016–17.

The proportion of serious assaults of an on-duty police officer increased in the years leading up to 2015–16 but decreased slightly in 2016–17. This is consistent with the Council’s analysis of court data, which found that the number of serious assaults of police officers sentenced in court has been decreasing since 2015–16 – see Figure 2-4 in Chapter 2.

The proportion of both assaults and obstructions of a police officer under section 790 of the PPRA decreased from 2011–12 to 2015–16 but remained stable in 2016–17.

**Figure 7-20: Proportion of charges resulting from assaults of on-duty police officers, 2011–12 to 2016–17**



Sources: Court data: QGSO, Queensland Treasury – Courts Database, extracted November 2019. Incident data provided by the Queensland Police Service – unpublished data, 2011–12 to 2016–17.

Notes: (1) ‘Other assault or obstruction’ includes assault charges such as common assault, AOBH and similar offences.

(2) *nfd* – not further defined. Includes charges of s 790 that could not be classified as either an assault or obstruction.

### 7.7.7 Sentencing outcomes

By linking incident data from agencies to court data on sentencing outcomes, it is possible to compare the types of sentences issued for offences such as common assault and AOBH for different types of victims.

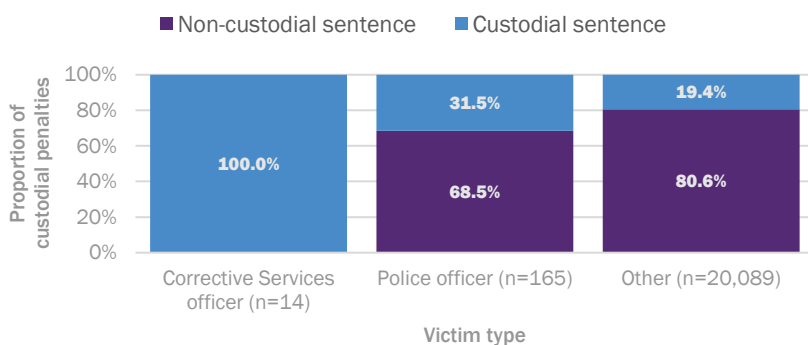
For a comparison of sentencing outcomes for the different types of serious assault, see section 7.3 above.

The findings of this analysis show that cases involving a common assault or AOBH of a public officer generally attracted a higher proportion of custodial penalties compared with cases in which the victim was not a public officer. However, the length of these custodial sentences was generally shorter in cases involving a public officer victim.

#### Common assault

While only a small number of adult offenders who assaulted a corrective services officer were charged with common assault (MSO), all of these offenders received a custodial penalty (n=14). In cases where a police officer was the victim of a common assault, 31.5 per cent of cases resulted in a custodial penalty – this is higher than the 19.4 per cent of cases that resulted in a custodial penalty with time served where the victim was not an on-duty police officer.

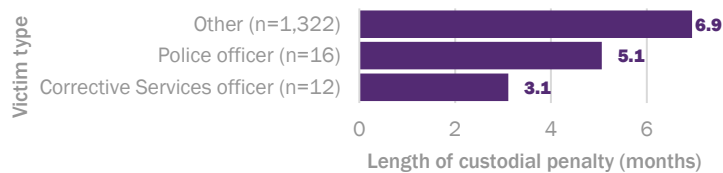
**Figure 7-21: Custodial penalties for common assault (MSO) by type of victim, adult offenders, 2011–12 to 2016–17**



Sources: Court data: QGSO, Queensland Treasury – Courts Database, extracted November 2019. Incident data provided by individual agencies – unpublished data, 2011–12 to 2016–17.

While common assaults against corrective services officers and police officers were more likely to result in a custodial penalty, Figure 7-22 shows that the length of custodial penalties with time served in a custodial facility post-sentence was shorter for common assaults against police officers and corrective services officers. On average, a common assault of a corrective services officer resulted in 3.1 months in custody (with actual time served); the common assault of a police officer resulted in a 5.1-month custodial sentence; and common assaults against other types of victims had longer sentences at 6.9 months on average.

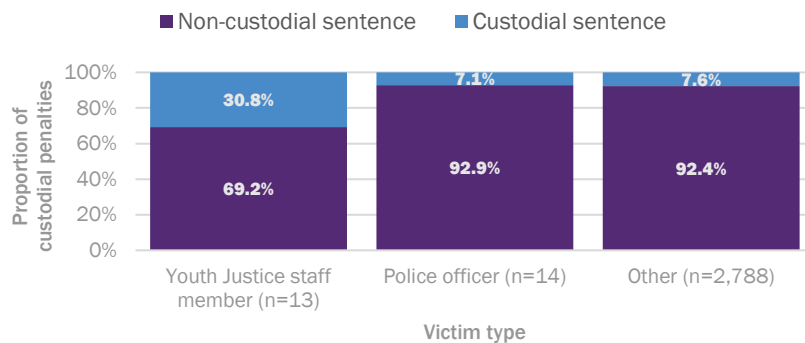
**Figure 7-22: Length of custodial penalties (with actual time served) for common assault (MSO), by type of victim, adult offenders, 2011-12 to 2016-17**



Sources: Court data: QGSO, Queensland Treasury – Courts Database, extracted November 2019. Incident data provided by individual agencies – unpublished data, 2011-12 to 2016-17.

For young people who were sentenced for common assault (MSO), in cases where the incident occurred in a youth detention facility, 30.8 per cent of cases resulted in a custodial penalty. This is considerably higher than the 7.1 per cent of common assaults involving on-duty police officers that resulted in a custodial penalty, and the 7.6 per cent of common assaults involving other types of victims who received a custodial penalty.

**Figure 7-23: Custodial penalties for common assault (MSO) by type of victim, young people, 2011-12 to 2016-17**



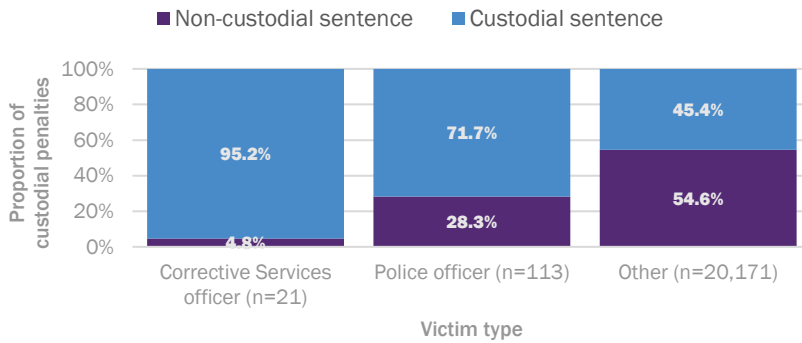
Sources: Court data: QGSO, Queensland Treasury – Courts Database, extracted November 2019. Incident data provided by individual agencies – unpublished data, 2011-12 to 2016-17.

Due to the small number of young people sentenced for common assault of a youth justice staff member or a police officer, there was not enough data to analyse the length of these sentences.

### Assaults occasioning bodily harm (non-aggravated)

There were 21 cases involving adult offenders assaulting a corrective services officer that resulted in a sentenced charge for non-aggravated AOBH (MSO); almost all of these cases resulted in a custodial sentence (95.2%). For incidents where a police officer was the victim of an AOBH, 71.7 per cent of cases resulted in a custodial penalty. For cases involving other types of victims, the proportion of custodial penalties was lower at 45.4 per cent.

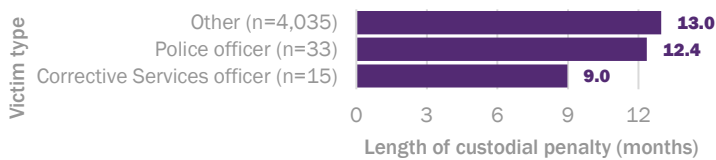
**Figure 7-24: Custodial penalties for AOBH (MSO) by type of victim, adult offenders, 2011–12 to 2016–17**



Sources: Court data: QGSO, Queensland Treasury – Courts Database, extracted November 2019. Incident data provided by individual agencies – unpublished data, 2011–12 to 2016–17.

Figure 7-25 shows the length of custodial penalties (with actual time served) issued for AOBH. In cases where the victim was a corrective services officer, the length of the penalty was relatively short, with sentences averaging 9.0 months. Cases involving a police officer as the victim received longer custodial sentences with an average length of 12.4 months. This was very similar to the average of 13.0 months for other AOBH cases where the victim was not a police officer or a corrective services officer.

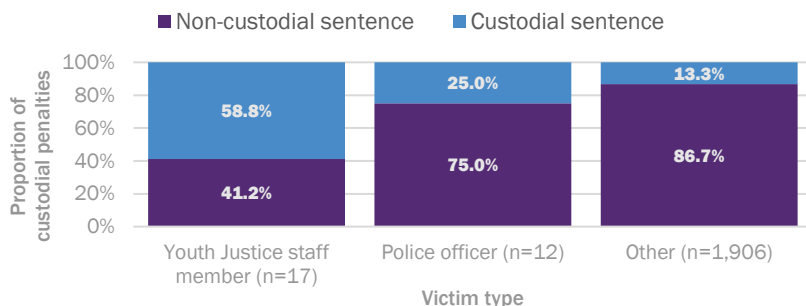
**Figure 7-25: Length of custodial penalties (with actual time served) for assaults occasioning bodily harm (MSO), by type of victim, adult offenders, 2011–12 to 2016–17**



Sources: Court data: QGSO, Queensland Treasury – Courts Database, extracted November 2019. Incident data provided by individual agencies – unpublished data, 2011–12 to 2016–17.

For young people, there were 17 cases that resulted in a sentenced charge for non-aggravated AOBH (MSO) of a staff member working in a youth detention facility. More than half of these cases resulted in a custodial penalty (58.8%). One-quarter of young people who were charged for AOBH of an on-duty police officer were sentenced to a custodial penalty (25.0%). For cases sentenced for AOBH of a person who was not a police officer or a staff member in a youth detention facility, only 13.3 per cent of cases resulted in a custodial penalty.

**Figure 7-26: Custodial penalties for AOBH (MSO) by type of victim, young people, 2011–12 to 2016–17**



Sources: Court data: QGSO, Queensland Treasury – Courts Database, extracted November 2019. Incident data provided by individual agencies – unpublished data, 2011–12 to 2016–17.

Due to the small number of young people sentenced for common assault of a youth justice staff member or a police officer, there was not enough data to analyse the length of these sentences.

## 7.8 Type of plea

### Section summary

- For offences involving the assault of a public officer, 97.4 per cent of defendants pleaded guilty. Only 2.6 per cent entered a plea of not guilty.
- The serious assault of a corrective services officer was the most likely to result in a not guilty plea (5.6% of cases).
- The summary offence of assaulting or obstructing a police officer was heard *ex parte* (in the defendant's absence) in 11.8 per cent of cases.
- Following the introduction of aggravating circumstances for serious assault under section 340 of the *Criminal Code*, the proportion of guilty pleas increased for serious assaults on police officers, decreased for serious assaults of public officers, and remained relatively unchanged for young offenders.

The Council refers to plea rates as a factor relevant to its assessment of the impacts of the 2012 and 2014 reforms that introduced new aggravated forms of serious assault carrying a higher 14-year maximum penalty, and also to the potential impacts of the existence of less serious summary charges, which can be charged for the same type of criminal conduct, captured within the offence of serious assault.

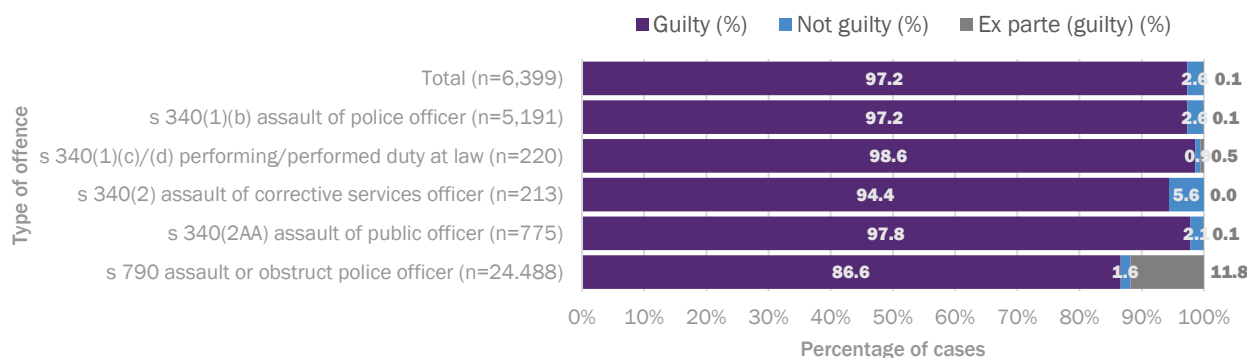
An accused person can be found guilty of an offence if he or she pleads guilty to the offence charged or is found guilty following a trial. This section of the paper explores the proportion of people sentenced who pleaded guilty, compared to those who pleaded not guilty and were subsequently found guilty at trial. Magistrates Courts can sentence people who do not come to court in their absence ('*ex parte*') – although the court can instead issue a warrant or adjourn the case. A person cannot be sentenced to imprisonment in their absence without an adjournment, specific procedural steps about notice to the person being taken, and a second failure to appear.<sup>6</sup> A defendant can also plead guilty and be sentenced in their absence in Magistrates Courts by providing written notice in some circumstances, but not to indictable offences (e.g. *Criminal Code* offences).<sup>7</sup> The cases referred to below as '*ex parte* (guilty)' include these situations in which a defendant was absent from court.

<sup>6</sup> See *Justices Act 1886* (Qld) ss 5 ('simple offence') 142 and 142A.

<sup>7</sup> *Ibid* s 146A.

Figure 7-27 shows the proportion of defendants who pleaded guilty for a relevant serious assault offence in the 10-year data period. The vast majority of defendants pleaded guilty (97.2%). Slightly more defendants pleaded guilty to serious assault in the Magistrates Courts (97.3 per cent) compared to the higher courts (96.6%). Offenders sentenced for the serious assault of a corrective services officer had the highest proportion of not guilty pleas at 5.6 per cent of cases. Section 790 assault or obstruct a police officer had the highest proportion of ex parte pleas at 11.8 per cent of cases.

**Figure 7-27: Final plea type for serious assault of public officer offences (MSO)**



Data include adult and juvenile offenders, higher and lower courts, cases sentenced from 2009–10 to 2018–19.

Source: QGSO, Queensland Treasury – Courts Database, extracted November 2019.

Note: Cases where the plea type was unknown have been included in the calculations but not presented.

Table 7-8 shows the proportion of guilty pleas by offence and demographic group. Overall, there were few differences by gender or Aboriginal and Torres Strait Islander status. Aboriginal and Torres Strait Islander offenders were slightly more likely to plead guilty than their non-Indigenous counterparts. Female offenders were also slightly more likely to plead guilty than males.

Non-Indigenous offenders, both male and female, were more likely to plead guilty to a section 790 assault or obstruct police officer offence than their Aboriginal and Torres Strait Islander counterparts. Aboriginal and Torres Strait Islander male offenders were slightly more likely to plead guilty for assault of a corrective services officer than other demographic groups at 98.6 per cent.

**Table 7-8: Final plea type for serious assault of public officer offences (MSO) by demographic group**

Demographic group	Aboriginal and Torres Strait Islander		Non-Indigenous	
	Female	Male	Female	Male
Offence	N	% pleaded guilty	N	% pleaded guilty
340(1)(b) serious assault police officer	627	98.1	1,325	97.0
340(1)(c)/(d) serious assault performing/performed duty at law	19*	100.0	63	100.0
340(2) serious assault corrective services officer	16*	93.8	69	98.6
340(2AA) serious assault public officer	108	98.2	193	98.5
790 assault or obstruct police officer	1,954	81.6	3,903	83.8
<b>Total</b>	<b>770</b>	<b>98.1</b>	<b>1,650</b>	<b>97.3</b>

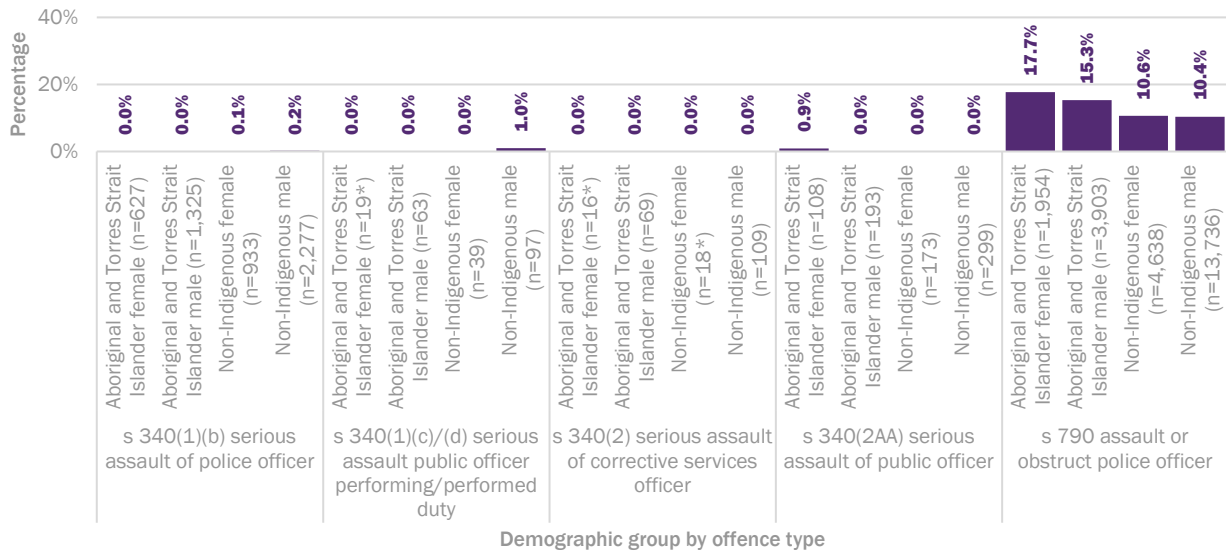
Data include adult and juvenile offenders, higher and lower courts, cases sentenced from 2009–10 to 2018–19.

Source: QGSO, Queensland Treasury – Courts Database, extracted November 2019.

Note: (\*) Small sample sizes

Offenders sentenced for a section 790 assault or obstruct police officer offence (MSO) were much more likely to enter an ex parte plea compared with other offences analysed. Female offenders and Aboriginal and Torres Strait Islander offenders were more likely to enter an ex parte plea to this offence than their counterparts, with Aboriginal and Torres Strait Islander females having the highest rate of ex parte pleas for assaulting or obstructing a police officer, at 17.7 per cent. Non-Indigenous males had the lowest proportion of ex parte pleas for this offence, at 10.4 per cent.

**Figure 7-28: Proportion of ex parte final pleas for assault of public officer offences (MSO) by demographic group and offence type**



Data include adult and juvenile offenders, higher and lower courts, cases sentenced from 2009–10 to 2018–19.

Source: QGSO, Queensland Treasury – Courts Database, extracted November 2019.

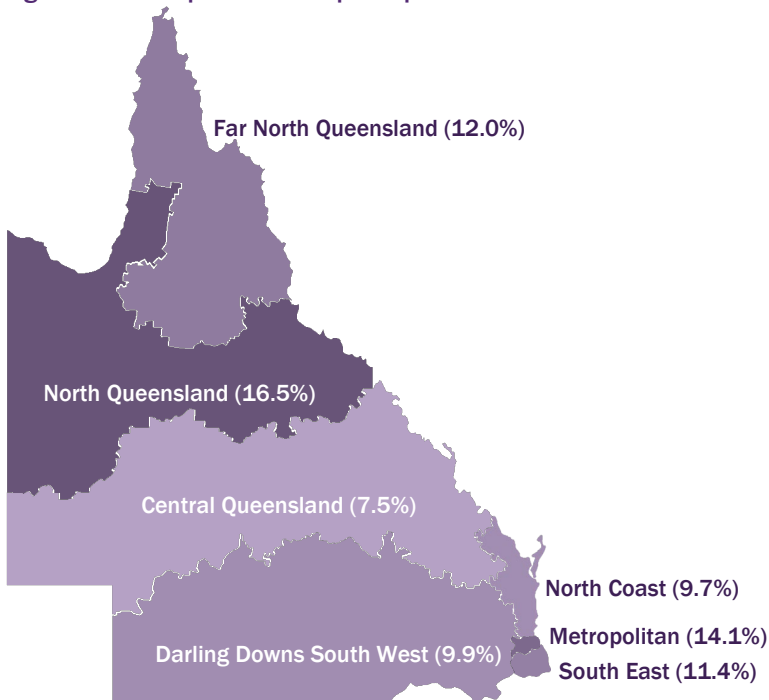
Note: (\*) Small sample sizes



Figure 7-28 (above) provides a breakdown of the regions throughout Queensland with the highest proportion of ex parte pleas for section 790 offences. It was speculated that the location of the court could be one potential reason for the high proportion of ex parte pleas for section 790 offences, with more ex parte pleas in locations that were less urban, where there are greater barriers to access to court and legal representation. However, Figure 7-29 disproves this theory, showing that the more remote regions did not necessarily have a higher proportion of ex parte pleas for section 790 offences.

The North Queensland region, which includes places ranging from Townsville to Mount Isa, had the highest proportion of ex parte pleas for section 790 offences at 16.5 per cent of cases. The region with the lowest proportion of ex parte pleas was Central Queensland at 7.5 per cent, which includes locations ranging from Mackay and Gladstone to Longreach. The Metropolitan region, which includes the Greater Brisbane area, had one of the highest proportions of ex parte pleas at 14.1 per cent of cases.

**Figure 7-29: Proportion of ex parte pleas for s 790 assault or obstruct police officer (MSO) by region**



Data include adult and juvenile offenders, higher and lower courts, cases sentenced from 2009–10 to 2018–19. Source: QGSO, Queensland Treasury — Courts Database, extracted November 2019.

## 7.8.1 Effect of the introduction of aggravating circumstances on type of plea

### Assaults on police by adult offenders

In the higher courts, prior to the introduction of aggravating circumstances for serious assault of a police officer under section 340(1)(b), the vast majority of adult defendants pleaded guilty to serious assault (96.0%). This increased slightly following the introduction of aggravating circumstances, to 97.7 per cent for aggravated offences and to 100 per cent for non-aggravated offences. There were not enough sentenced cases under section 790 in the higher courts to perform similar analysis.

Similar results were seen in the Magistrates Courts, with the proportion of guilty pleas increasing slightly following the introduction of aggravating circumstances for assault of a police officer; rising from 95.9 per cent prior to the introduction of aggravating factors to 97.2 per cent for non-aggravated offences and 97.6 per cent aggravated offences.

Over the same period, section 790 offences sentenced in the Magistrates Courts also saw a slight increase in guilty pleas from 84.8 per cent to 86.3 per cent, as well as a decrease in ex parte pleas (13.4% to 12.2%).

**Table 7-9: Final plea type for assaults of police officers (MSO), before and after the introduction of aggravating circumstances, adult offenders**

Type of offence		2009–10 to 2011–12			2013–14 to 2015–16		
		Guilty	Not guilty	Ex parte (guilty)	Guilty	Not guilty	Ex parte (guilty)
<b>Higher courts</b>							
s 340(1)(b) police officer	Prior to aggravating circumstances (n=252)	96.0%	4.0%	0.0%			
	Non-aggravated (n=30)				100.0%	0.0%	0.0%
	Aggravated (n=132)				97.7%	2.3%	0.0%
s 790 assault/ obstruct police	Prior to aggravating circumstances (n=7*)	-	-	-			
	Post aggravating circumstances (n=1*)				-	-	-
<b>Magistrates courts</b>							
s 340(1)(b) police officer	Prior to aggravating circumstances (n=905)	95.9%	3.9%	0.0%			
	Non-aggravated (n=580)				97.2%	2.4%	0.3%
	Aggravated (n=738)				97.6%	2.2%	0.0%
s 790 assault/ obstruct police	Prior to aggravating circumstances (n=7,890)	84.8%	1.8%	13.4%			
	Post aggravating circumstances (n=7,512)				86.3%	1.5%	12.2%

Data include adult offenders, MSO.

Source: QGSO, Queensland Treasury – Courts Database, extracted November 2019.

Notes:(1) Cases where the plea type was unknown have been included in the calculations but not presented.

(2) Aggravating circumstances were introduced on 29 August 2012.

(\*) Small sample sizes

## Assaults on police by young offenders

In the higher courts there were not enough sentenced cases under either section 340(1)(b) or section 790 to reliably analyse the final plea type for young offenders. In the Magistrates Courts, almost all juvenile defendants pleaded guilty to serious assault of a police officer, both before and after the introduction of aggravating circumstances. Before the introduction of aggravating circumstances, 98.3 per cent pleaded guilty; this decreased slightly for non-aggravated offences (97.2%) and increased slightly for aggravated offences (99.2%). A slight increase in guilty pleas was also seen for section 790 offences after the introduction of aggravating circumstances.

**Table 7-10: Final plea type for assaults of police officers (MSO), before and after the introduction of aggravating circumstances, juvenile offenders**

Type of offence		2009–10 to 2011–12			2013–14 to 2015–16		
		Guilty	Not guilty	Ex parte (guilty)	Guilty	Not guilty	Ex parte (guilty)
<b>Higher courts</b>							
s 340(1)(b) police officer	Prior to aggravating circumstances (n=9*)	-	-	-			
	Non-aggravated (n=2*)				-	-	-
	Aggravated (n=10*)				-	-	-
s 790 Assault/obstruct police	Prior to aggravating circumstances (n=1*)	-	-	-			
	Post aggravating circumstances (n=0)				-	-	-
<b>Magistrates courts</b>							
s 340(1)(b) police officer	Prior to aggravating circumstances (n=118)	98.3%	0.9%	0.0%			
	Non-aggravated (n=72)				97.2%	2.8%	0.0%
	Aggravated (n=128)				99.2%	0.8%	0.0%
s 790 Assault/obstruct police	Prior to aggravating circumstances (n=368)	98.9%	0.8%	0.3%			
	Post aggravating circumstances (n=295)				99.7%	0.3%	0.0%

Data include juvenile offenders, MSO.

Source: QGSO, Queensland Treasury – Courts Database, extracted November 2019.

Notes: (1) Cases where the plea type was unknown have been included in the calculations but not presented.

(2) Aggravating circumstances were introduced on 29 August 2012.

(\*) Small sample sizes

## Assaults on public officers by adult offenders

There were not enough cases sentenced under section 340(2AA) in the higher courts to reliably analyse pleas. In the Magistrates Courts, 98.5 per cent of defendants pleaded guilty to serious assault of a public officer before the introduction of aggravating circumstances. After introduction, the proportion of guilty pleas decreased slightly for both aggravated and non-aggravated offences.

There were not enough sentenced cases under section 340(2AA) involving young offenders to perform reliable analysis for this group.

**Table 7-11: Final plea type for assaults of public officers (MSO), before and after the introduction of aggravating circumstances, adult offenders**

Type of offence		2011–12 to 2013–14		2015–16 to 2017–18	
		Guilty	Not guilty	Guilty	Not guilty
<b>Higher courts</b>					
s 340(2AA) public officer	Prior to aggravating circumstances (n=14*)	-	-		
	Non-aggravated (n=7*)			-	-
	Aggravated (n=27*)			-	-
<b>Magistrates courts</b>					
s 340(2AA) public officer	Prior to aggravating circumstances (n=130)	98.5%	1.5%		
	Non-aggravated (n=154)			97.4%	2.6%
	Aggravated (n=113)			98.2%	1.8%

Data include adult offenders, MSO.

Source: QGSO, Queensland Treasury – Courts Database, extracted November 2019.

Notes: (1) Aggravating circumstances were introduced on 5 September 2014.

(\*) Small sample sizes