



Queensland Sentencing
Advisory Council
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Penalties for assaults on public officers

Issues Paper

April 2020

Warning to readers

This report contains subject matter that may be distressing to readers. Material describing assaults committed on police, other emergency services personnel, corrective services officers and other public officers, including case studies drawn from sentencing remarks, and descriptions of the impact these offences can have on victims are included in this report. If you need to talk to someone, support is available:

- [Lifeline Australia](https://www.lifeline.org.au): 13 11 14
- [Victim Assist Queensland](https://www.victimassist.qld.gov.au): 1300 546 587 (business hours) or e-mail: VictimAssist@justice.qld.gov.au

You may also be able to seek advice and support from your current employer and employee union. Visit their websites for more information.

Penalties for assaults on public officers: Issues paper

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Queensland Sentencing Advisory Council

The Queensland Sentencing Advisory Council is established by section 198 of the *Penalties and Sentences Act 1992* (Qld). The Council provides independent research and advice, seeks public views and promotes community understanding of sentencing matters. The Council's functions, detailed in section 199 of the Act, include to:

- inform the community about sentencing through research and education;
- engage with Queenslanders to understand their views on sentencing; and
- advise the Attorney-General on matters relating to sentencing, at the Attorney-General's request.

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Foreword

In December 2019, the Attorney-General Yvette D'Ath issued the Council with Terms of Reference focussing on the sentencing of assaults of police and other frontline emergency service workers, corrective services officers and other public officers.

This Reference refers Council to the importance of ensuring that everyone should be able perform their job free from physical threats and violence. The impact of being assaulted at work can be significant and ongoing, and the ripples of these incidents reach beyond individuals themselves, having impacts on family members and employers and on the broader community.

Some occupational groups – such as police and corrective services officers – are trained and prepared to manage conflict and aggression, while others – health care workers, paramedics, teachers, public transport workers – are not equipped, nor should they expect to meet violence in their role. Regardless of the work, however, violence should never be accepted as ‘part of the job’, even for those who are trained to respond.

The work of these occupational groups is considered central to the operation of public order and public service, and governments across the world have worked to ensure they are protected in their work from occupational violence. The many actions governments have taken over time to respond to and prevent occupational violence have included establishing penalties that reflect the fact that assault against these individuals is considered very serious.

On the other hand, the Council recognises that those individuals who assault a public officer are often responding in the context of personal circumstances that mean they are not thinking or behaving rationally. Many of these individuals have mental health conditions, drug or alcohol addiction, or disabilities that compound with heightened stress in a situation, leading to the offending.

With the emergence of the COVID-19 pandemic, there has never been a more important time in Queensland to consider this issue. Daily, our frontline workers are being called upon to enforce restrictions on the movement of individuals, deliver services under difficult conditions, and manage those who cannot live in the community due to their infection with the virus, or because they were already serving a sentence in prison for a criminal offence.

These workers deserve to conduct their work in safety, and their workplaces can include our streets, hospitals, public transport networks and prisons.

This Paper explores the legal framework currently in place to sentence those who are convicted of assaulting a public officer, considers the relevant literature about this offence, presents sentencing statistics and trends over time for this offence, and identifies a range of associated issues. A set of questions has been posed, and we strongly encourage input from our stakeholders.

Naturally, our consultation on this Terms of Reference has been impacted by the restrictions in place to limit social contact, and we are moving to more appropriate mechanisms to ensure we have a range of views on the questions we have raised.

I urge you to consider the issues contained in this Paper, and I look forward to the responses of our key agencies, unions and other representative groups. The feedback we receive will be critical to the Council’s deliberation on recommendations, which will be released as part of the final report sometime later in 2020.



John Robertson
Chair

Acknowledgements

The Council's inquiries are informed by the knowledge and expertise of its members, research and policy analysis undertaken by its staff, and the contribution of key criminal justice agencies, other stakeholders and community members.

The Council would like to acknowledge the contributions of all those who made preliminary submissions, attended meetings to discuss issues relating to the review, and provided information to inform the preparation of this issues paper. While not exhaustive, those who have contributed submissions to the review included the Australasian Railway Association, the Bus Industry Confederation, the Rail, Tram and Bus Union, the TrackSAFE Foundation, the Australian Lawyers Alliance, the Bar Association of Queensland, GoldlinQ Pty Ltd (Gold Coast Light Rail), the Department of Communities, Disability Services and Seniors, the Department of Education, the Department of Housing and Public Works, the Department of Justice and Attorney-General (DJAG), the Department of Youth Justice, the Dispute Resolution Branch, DJAG, Legal Aid Queensland, the Office of Industrial Relations, the Office of the Information Commissioner, the Office of the Public Guardian, the Prisoners' Legal Service, Queensland Advocacy Incorporated, Queensland Corrective Services (QCS), Queensland Health, the Queensland Human Rights Commission, Queensland Fire and Emergency Services, the Queensland Law Society, the Queensland Nurses and Midwives' Union, the Queensland Police Service (QPS), the Queensland Police Union of Employees, the Queensland Teachers' Union, the Security Providers Association of Australia Limited, Sisters Inside, Together Queensland, the Transport Workers' Union (Queensland Branch), and local and interstate criminal justice agencies and academic researchers.

The Council looked at a range of sentencing data to inform the findings in this paper, and would like to thank the following agencies for providing data for this review: the Queensland Ambulance Service, QCS, Court Services Queensland (DJAG), the Department of Education, Queensland Fire and Emergency Services, Queensland Health, the Office of Industrial Relations, DJAG, the QPS, the Public Service Commission, the Department of Transport and Main Roads, WorkCover Queensland, the Department of Youth Justice, and Victim Assist Queensland. The Council would also like to acknowledge the Griffith Institute of Criminology which was commissioned to conduct a literature review on the sentencing of assaults on public officers.

The Council also acknowledges the input and advice provided by the Council's Aboriginal and Torres Strait Islander Advisory Panel. The Council appreciates the input of the Panel on this project, and thanks the members of the Panel for their engagement and advice to date.

It is also the Council's practice to establish a Project Board for every inquiry. The Council acknowledges the contributions of Project Board members and thanks Board members for giving so generously of their time during the initial stages of the review.

Call for submissions

Submissions are being called for as part of the Council's review of penalties for assaults on public officers.

You are invited to make a submission based on the questions in this consultation paper, or any issues arising from the Terms of Reference.

Submission deadline: Thursday, 25 June 2020, 5.00pm

Preparing submissions

The issues and questions presented address key concerns under the Terms of Reference referred to the Council by the Attorney-General.

You are invited to respond to some or all of the questions and to provide your views on options presented. To assist in analysing responses, please identify the relevant question or option number/s in your submission.

Try to keep your responses succinct and focused on the question/s or issue you are responding to. If you wish to provide attachments, please indicate which question/s your attachment refers to.

How your submission will be used

All submissions to this issues paper, as well as additional consultation conducted with key stakeholders, will inform the Council's response to the Terms of Reference. A final report with recommendations will be provided to the Attorney-General by 31 August 2020 and released publicly via the Council's website: www.sentencingcouncil.qld.gov.au.

This consultation paper reflects the Council's commitment to listening to community members.

Generally, submissions will be considered public and published on the Council's website unless clearly marked 'confidential'.

Public submissions may be published on the Council's website, but with certain personal information redacted to protect the privacy of those making the submission.

Submissions marked as '**anonymous**' will have all identifying details removed (including the name or names of those making the submission) prior to publication.

The Council does not publish submissions that are received anonymously (that is, that do not include the name and contact details of the person making them).

Submissions marked '**confidential**' will not be published or referred to in publications. The Council treats confidential submissions as for the Council's information only.

Any personal information provided by individuals identified in this public consultation process will be collected only for the purpose of the review. Personal information will not be used within the final report. However, unless you explicitly request, details provided in your submission (other than personal information) may be directly or indirectly quoted in the final report, or other products associated with the final report. If you include details in your submission that you do not want publicly disclosed, please indicate this within your submission.

The *Right to Information (RTI) Act 2009* may apply to submissions provided as part of this consultation process. If subject to a RTI application, submissions (including those marked as confidential) will all be assessed as part of the RTI process.

While the Terms of Reference are restricted to reviewing penalties for assaults of a public officer, the Council understands there may be other issues submitters wish to highlight or raise.

Submissions containing offensive, derogatory, highly specific information about actual offending and/or issues beyond the scope of these Terms of Reference will not be referred to in the final report and may be excluded from the consultation process.

Making a submission

Email

To submit via email, please include in the subject line of your email 'Penalties for assaults on public officers review submission'.

Email your submission to submissions@sentencingcouncil.qld.gov.au.

Post

To make a postal submission, please include the following information on your correspondence 'Penalties for assaults on public officers review submission'. Post your submission to:

Queensland Sentencing Advisory Council
GPO Box 2360
Brisbane Qld 4001

Submission assistance

If you require any assistance to participate in this public consultation process, please contact the Council on (07) 3224 7375, or use the following services:

Translating and Interpreting Service

If you need an interpreter, contact the [Translating and Interpreting Service \(TIS\)](#) on 131 450 and tell them:

- the language you speak;
- the council's name – Queensland Sentencing Advisory Council; and
- the Council's phone number – (07) 3224 7375.

TIS will arrange an interpreter so you can talk with us. This is a free service.

National Relay Service

The National Relay Service (NRS) is a free phone service for people who are deaf or have a hearing or speech impairment. If you need help contacting us, the NRS can assist. To contact the NRS you can:

- TTY/voice call – 133 677
- Speak and Listen – 1300 555 727
- SMS relay – 0423 677 767

Table of contents

Chapter 1 Introduction	1
1.1 Background	1
1.2 Terms of Reference	1
1.3 The Council's approach	2
1.4 Scope of the project	4
1.5 Data used in this paper	4
1.6 Outline of the issues paper	5
Chapter 2 A profile of assaults on public officers	6
2.1 Literature review: executive summary	6
2.2 Frequency of assaults on public officers	8
2.3 Sentenced acts intended to cause injury	10
2.4 Serious assault trends	12
2.5 Serious assault of public officers	15
2.6 Demographics of offenders sentenced for serious assault of a public officer	16
2.7 Associated offences	17
2.8 Summary	18
Chapter 3 Current offence framework in Queensland	20
3.1 Offences and penalties under the <i>Criminal Code</i>	20
3.2 Other offences that can be charged under other legislation	25
3.3 History of s 340 – amendments and rationale	26
3.4 Jurisdiction and sentencing implications	30
3.5 Charging discretion	31
3.6 The impact of the <i>Human Rights Act 2019</i> (Qld)	31
Chapter 4 Sentencing process and framework in Queensland	34
4.1 <i>Penalties and Sentences Act 1992</i> (Qld): purposes, guidelines and factors	34
4.2 Sentencing principles in case law – totality and the <i>De Simoni</i> principle	40
4.3 The general approach to sentencing in Queensland	42
4.4 The application of general sentencing principles and approaches to sentencing for serious assaults	45
4.5 The orders courts can make when sentencing for assaults on public officers	53
4.6 Differences in sentencing children	59
Chapter 5 Sentencing outcomes for assaults on public officers	63
5.1 Sentencing outcomes for serious assaults and other 'acts intended to cause serious injury'	63
5.2 Sentencing outcomes for section 340 <i>Criminal Code</i>	69
5.3 Assault of police officers	74
5.4 Assault of corrective services officers	83
5.5 Assault of public officers	86
5.6 Limitations and data quality issues	93
5.7 Summary	94
Chapter 6 The approach in other jurisdictions	96
6.1 Introduction	96
6.2 Specific offences targeting workplace assaults	96
6.3 Aggravated forms of offences	98

6.4	Aggravating factors for sentencing purposes	101
6.5	Mandatory minimum penalties, standard sentences and standard non-parole periods	105
6.6	Conclusion	114
Chapter 7 Aggravated assault based on victim status		115
7.1	Introduction	115
7.2	Judging offence seriousness	117
7.3	Historical justifications and the approach in other jurisdictions	123
7.4	Stakeholder views on victim status	125
7.5	Issues	126
Chapter 8 Responding to the needs of victims		129
8.1	Impact of assault on public officer victims	129
8.2	The role of the criminal justice system in responding to victim needs	131
8.3	Current approach	133
8.4	Alternative mechanisms	140
Chapter 9 Offence and sentencing framework: issues and options		144
9.1	Introduction	144
9.2	The definition of a ‘public officer’	144
9.3	Assaults by prisoners against corrective services officers	156
9.4	Legal framework for aggravated forms of assault and assault-related offences	160
9.5	Offences of assault and related conduct (resist and obstruct) involving public officers	165
9.6	General deterrence as a key sentencing purpose and its relationship to the setting of penalty levels	175
9.7	Do current penalties and sentencing practices provide an adequate response to assaults on public officers?	198
9.8	Reform options	210
Chapter 10 Enhancing community knowledge and understanding		225
10.1	Introduction	225
10.2	Raising public awareness	225
10.3	Other issues	234
Appendix 1: Terms of Reference		236
Appendix 2: Preliminary submissions		238
Appendix 3: Summary of changes to section 340 of the <i>Criminal Code</i>		240
Appendix 4: Data tables		241
Appendix 5: Cross jurisdictional analysis: Australia and select international jurisdictions		244
Glossary		260
Bibliography		264

List of figures

Figure 1-1: The Council's approach to the Terms of Reference	3
Figure 2-1: Rate of accepted WorkCover claims per 1,000 employees for assault of public officers, 2014–15 to 2018–19	10
Figure 2-2: Number of sentenced cases involving an 'act intended to cause injury'	11
Figure 2-3: Number of sentenced cases involving a serious assault over time	12
Figure 2-4: Number of sentenced serious assault cases (MSO), by subsection over time	13
Figure 2-5: Rate of sentenced serious assault cases (MSO) per 1,000 frontline employees over time	14
Figure 2-6: Number of sentenced serious assault cases (MSO), by subsection	14
Figure 2-7: Proportion of serious assault of a public officer cases by offence type	15
Figure 2-8: Percentage of young offenders sentenced for serious assault (MSO)	17
Figure 2-9: Top 5 MSOs in cases where serious assault of a public officer was not the MSO	17
Figure 2-10: Top eight associated offences sentenced with the serious assault of a public officer (MSO)	18
Figure 5-1: Distribution of custodial penalties for 'acts intended to cause injury' offences carrying a 7-year maximum penalty (MSO)	65
Figure 5-2: Distribution of custodial penalties for 'acts intended to cause injury' offences carrying a 14-year maximum penalty (MSO)	67
Figure 5-3: Distribution of custodial penalties for common assault (MSO) and non-aggravated assault of public officer offences (MSO)	68
Figure 5-4: Type of penalties issued for serious assault of a public officer over time (MSO), Magistrates Courts	69
Figure 5-5: Proportion of serious assaults of public officers that resulted in a custodial penalty (MSO), Magistrates Courts, adult offenders	70
Figure 5-6: Type of penalties issued for serious assault (MSO) by assault type, Magistrates Courts, adult offenders	71
Figure 5-7: Type of penalties issued for serious assault of a public officer (MSO) over time, higher courts	72
Figure 5-8: Percentages of serious assaults of public officers that resulted in a custodial penalty (MSO) by assault type, higher courts, adult offenders	73
Figure 5-9: Type of penalties issued for serious assault (MSO) by assault type, higher courts, adult offenders	73
Figure 5-10: Type of penalties issued for serious assault (MSO), by assault type, young offenders	74
Figure 5-11: Proportion of assaults and obstructions under section 790(1) PPRA	75
Figure 5-12: Number of assaults or obstructions of police officers, by assault type, over time	76
Figure 5-13: Number of serious assaults of police officers, by aggravating circumstances, over time	77
Figure 5-14: Demographics of offenders sentenced for the assault of a police officer	82
Figure 5-15: Number of assaults or obstructions of corrective services staff, over time	83
Figure 5-16: Demographics of offenders sentenced for the assault of a corrective services officer	85

Figure 5-17: Number of cases involving a serious assault of a public officer offence, over time	86
Figure 5-18: Number of serious assaults of public officers by aggravating circumstances, over time	89
Figure 5-19: Demographics of offenders sentenced for the assault of a public officer	93
Figure 8-1: Proportion of serious assault cases receiving a compensation and/or restitution order	140
Figure 8-2: Average amount of compensation and/or restitution ordered for serious assault cases	140

List of tables

Table 2-1: Number of reported incidents and accepted WorkCover claims for assaults of public officers, 2014–15 to 2018–19	9
Table 2-2: Number of serious assaults of a public officer, by type of court	15
Table 5-1: Number of sentenced assaults or obstructions of police officers by assault type	75
Table 5-2: Custodial sentences for serious assaults against police officers (MSO) before and after the introduction of aggravating circumstances, adult offenders	78
Table 5-3: Custodial sentences for serious assaults against police officers (MSO) before and after the introduction of aggravating circumstances, juvenile offenders	79
Table 5-4: Sentencing outcomes for assault of a police officer by assault type (MSO), adult offenders	80
Table 5-5: Ranking of seriousness of sentencing outcomes for assault of a police officer by assault type, adult offenders	81
Table 5-6: Number of sentenced assaults or obstructions of corrective services staff	83
Table 5-7: Sentencing outcomes for assault of a corrective services officer by assault type (MSO), adult offenders	84
Table 5-8 : Number of sentenced assaults of public officers	87
Table 5-9: Victim occupations, by type of serious assault and whether the offender was an adult	88
Table 5-10: Aggravating circumstances by victim occupation	90
Table 5-11: Custodial sentences for assault against public officers (MSO) before and after the introduction of aggravating circumstances, adult offenders	91
Table 5-12: Custodial sentencing outcomes for assaults against public officers (MSO), adult offenders	92
Table 7-1: Starting point for sentencing of three assault offences, England and Wales	123
Table 8-1: Restitution and compensation orders for serious assaults of a public officer	139
Table 9-1: Select Queensland offences involving assault, maximum penalties and classification	166
Table 9-2: Select Queensland offences involving obstruction, maximum penalties and classification	168
Table 9-3: Maximum penalties for AOBH, and equivalents, where committed against a public officer (or specific classes of officer) by jurisdiction	204
Table A4-1: Frequency of accepted WorkCover claims for assaults of public officers, by agency and occupation over time, 2014–15 to 2018–19	241
Table A4-2: Summary of custodial penalties for 'acts intended to cause injury' offences carrying a 7-year maximum penalty (MSO)	242
Table A4-3: Summary of custodial penalties for 'acts intended to cause injury' offences carrying a 14-year maximum penalty (MSO)	242
Table A4-4: Summary of custodial penalties for common assault and non-aggravated serious assault (MSO)	242
Table A4-5: Restitution and compensation orders for serious assaults of a public officer	243
Table A5-1: Examples of specific offences involving assaults on police – Australia, Canada, England and Wales and New Zealand	244

Table A5-2: Examples of specific offences involving assaults of public officers – Australia, Canada, England and Wales and New Zealand	248
Table A5-3: Examples of circumstances of aggravation that apply to assault and other offences against the person when committed against specific classes of workers – Australia	255
Table A5-4: Examples of aggravating factors for sentencing purposes for assaults and other non-fatal offences against specific categories of workers – Australia, Canada, England and Wales and New Zealand	258

Abbreviations

ABS	Australian Bureau of Statistics
ALA	Australian Lawyers Alliance
ALRC	Australian Law Reform Commission
ANZSOC	Australian and New Zealand Standard Offence Classification
AOBH	Assault occasioning bodily harm
ARJC	Adult restorative justice conferencing
CCC	Crime and Corruption Commission
CCO	Community Corrections Officer
CLR	Commonwealth Law Reports
CLS	Court Liaison Service
CSA	<i>Corrective Services Act 2006 (Qld)</i>
DCDSS	Department of Communities, Disability Services and Seniors
DJAG	Department of Justice and Attorney-General
DPP	Director of Public Prosecutions
GBH	Grievous bodily harm
GPS	Global positioning system
HRA	<i>Human Rights Act 2019 (Qld)</i>
MHC	Mental Health Court
MSO	Most serious offence
ODPP	Office of the Director of Public Prosecutions (Queensland)
PLS	Prisoners' Legal Service
PSA	<i>Penalties and Sentences Act 1992 (Qld)</i>
PPRA	<i>Police Powers and Responsibilities Act 2000 (Qld)</i>
QAI	Queensland Advocacy Incorporated
QC	Queen's Counsel
QCA	Queensland Court of Appeal
QCA	Queensland Court of Appeal
QCS	Queensland Corrective Services
QGSO	Queensland Government Statisticians Office
QHRC	Queensland Human Rights Commission
QPS	Queensland Police Service

QPU	Queensland Police Union of Employees
QSAC	Queensland Sentencing Advisory Council
QSI	Queensland Sentencing Information Service
QTU	Queensland Teachers' Union
QWIC	Queensland Wide Inter-Linked Courts database
SNPP	Standard non-parole period
SPAAL	Security Providers Association of Australia Limited
SVO	Serious Violent Offence
TSAC	Tasmanian Sentencing Advisory Council
TWU	Transport Workers' Union
VAQ	Victims Assist Queensland
VIS	Victim impact statement
VLRC	Victorian Law Reform Commission
VOCCA	<i>Victims of Crime Assistance Act 2009</i> (Qld)
VSAC	Victorian Sentencing Advisory Council
YJA	<i>Youth Justice Act 1992</i> (Qld)