



**TWU**  
Carrying Australia

Queensland Sentencing Advisory Council's  
review of penalties for assaults on police and  
other frontline emergency service workers,  
corrective service officers and other public  
officers

25 June 2020

Transport Workers' Union of Australia  
Submission

## Introduction

The Transport Workers' Union of Australia (TWU) represents around 8800 workers across the state's aviation, oil, waste management, gas, road transport, passenger vehicle and freight logistics industries. With over one hundred years' experience representing Queensland's transport workers, the TWU has advocated for the establishment and reform of industry standards which have advanced the lives and safety of transport workers, their families, and the community.

As the major stakeholder and peak union for the State's transport industry workforce, the TWU welcomes the opportunity to contribute the following submission for the Queensland Sentencing Advisory Council's ('QSAC') review into penalties for assaults on public officers. To assist the Council, this submission has limited its focus to the following questions:

- 1.) Should an assault on a person while at work be treated by the law as more serious, less serious, or as equally serious as if the same act is committed against someone who is not at work, and why?
- 2.) If an assault is committed on a public officer performing a public duty, should this be treated as more serious, less serious, or as equally serious as if the same act is committed on a person employed in a private capacity (e.g. as a private security officer, or taxi driver) and why?
- 6.) Who should be captured within the definition of a 'public officer' and how should this be defined? Are the current definitions under sections 1 and 340 of the *Criminal Code* sufficiently clear, or are they in need of reform? For example:
  - a. Should the definition of 'public officer' in section 340 of the *Criminal Code* be expanded to expressly recognise other occupations, including public transport drivers (e.g. bus drivers and train drivers) and public transport workers?
- 7.) Should assaults on people employed in other occupations in a private capacity, working in particular environments (e.g. hospitals, schools or aged care facilities) or providing specific types of services (e.g. health care providers or teachers) also be recognised as aggravated forms of assault? For example:
  - (a) by recognising a separate category of victim under section 340 of the *Criminal Code* – either with, or without, providing for additional aggravating circumstances (e.g. spitting, biting, throwing bodily fluids, causing bodily harm, being armed) carrying a higher maximum penalty;
- 17.) How can community knowledge and understanding about penalties and sentencing for assaults on public officers be enhanced?

As an employee organisation representing workers within the transport industries our members include bus drivers employed by privately owned operators. Consistent with the Western Australian and South Australian Government's introduction of tougher penalties for people found guilty of assaulting public transport workers<sup>12</sup>, and in line with the 2017 Queensland Bus Driver Safety Review recommendations, we would ask that the inquiry consider, where appropriate, extending similar and tougher penalties to bus drivers working within both the public and private spheres, and personalised transport workers.

We agree with the sentiments as outlined within the Terms of Reference issued to the Council which include the expectation of the community and government that public officers carrying out their duties should not be the subject of assault during the execution of their duties. We support the need for public officers to have confidence that the criminal justice system properly reflects the inherent dangers they face in the performance of their duties to the community, and the negative impacts that such an assault can have on transport workers, their workmates and families. We further support the importance of the penalties and sentences imposed for such offences to be adequate while taking into account the individual facts and circumstances of a case, the seriousness of the offence concerned and offender culpability.

We would be seeking, where legislatively appropriate, to either widen the definition of "Public Officer" pursuant to section 340 of the *Criminal Code* 1899 to include private bus drivers and personalised transport operators, or recognise such offences in separate provisions with higher penalties or circumstances of aggravation.

## **Bus Drivers**

According to the 2017 Bus Safety Review, in 2015/16 Department of Transport and Main Roads contracted bus operators reported 392 assault related incidents which "*comprised of verbal and physical assaults as well as reports on incidences where objects were thrown at buses.*"<sup>3</sup> Notwithstanding their direct interaction with the public and working alone, evidence suggests that

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<sup>1</sup> ABC news. "Tougher penalties introduced in bid to reduce violence against SA transport workers." (News Article, 5 March 2016) <https://www.abc.net.au/news/2016-03-05/sa-govt-announces-tougher-penalties-violence-transport-workers/7223596?section=sa>

<sup>2</sup> *Criminal Law Consolidation Act (SA) 1935 s20AA; Criminal Code (WA) s 318.*

<sup>3</sup> Department of Transport and Main Roads. 2017. *Queensland Bus Driver Safety Review*, 6. <https://translink.com.au/about-translink/projects-and-initiatives/bus-driver-safety-review>.

bus drivers have a higher predisposition and increased vulnerability to violence.<sup>4</sup> As our privately engaged bus drivers essentially perform the same public transport services, we believe they face the same risk of assault as bus drivers employed directly by the public service sector.

According to data collated by the QSAC's issue paper it is noted that: *"from 2009–10 to 2018–19, the number of sentenced cases involving serious assault of a public officer has more than quadrupled, from 46 cases in 2009–10 to 244 cases in 2018–19, an increase of 430.4 per cent — with the increase being particularly apparent after the introduction of an aggravated form of offence in September 2014. Over the same period the number of employees in the public sector only increased by 18.8 per cent."*<sup>5</sup> And that overall, the total number of sentenced cases involving a serious assault under section 340 of the Criminal Code increased over the past decade from 721 cases in 2009–10 to 1,339 cases in 2018–19, with an increase of 85.7 per cent.<sup>6</sup> The QSAC Issue Paper also reported that the number of assaults of public officers has more than quadrupled over the data period, from 29 cases of more serious offences in 2009–10 to 132 in 2018–19.<sup>7</sup>

The QSAC commissioned review of the current evidence in relation to assaults against public officers undertaken by Griffith University acknowledged that assaults against public officers have a significant impact on victims and their respective employers such as reduction in job performance, lowered productivity and difficulties in staff retention.<sup>8</sup> As equally as important, the review acknowledges situational factors, such as frequent contact with clients being associated with assaults,<sup>9</sup> conditions of both bus drivers and personalised transport workers.

In *"Moving violations: A study of incivility and violence against urban bus drivers in Australia"* Lincoln & Gregory report 43% of bus drivers had experienced physical assault.<sup>10</sup> In *"An Investigation into Abuse and Assault of Route Bus Drivers: Statistics, Triggers, Risk Reduction, Training, and Opportunities"* Dawson, and others, report that 89% of bus drivers experienced 'abuse'.<sup>11</sup> While Lincoln and Gregory found that violent incidents against Queensland bus drivers

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<sup>4</sup> Department of Transport and Main Roads. 2017. *Queensland Bus Driver Safety Review*, 8 <https://translink.com.au/about-translink/projects-and-initiatives/bus-driver-safety-review>.

<sup>5</sup> Queensland Public Service Commission, Workforce Statistics — unpublished data, 2014–15 to 2018–19.

<sup>6</sup> Queensland Sentencing Advisory Council. April 2020. Penalties for Assaults in Public Officers Issue Paper, [https://www.sentencingcouncil.qld.gov.au/\\_data/assets/pdf\\_file/0008/648161/issues-paper.pdf](https://www.sentencingcouncil.qld.gov.au/_data/assets/pdf_file/0008/648161/issues-paper.pdf) p.12.

<sup>7</sup> Ibid 13.

<sup>8</sup> Bond, Christine, Louise Porter, Margo van Felius, Tiahna Mullholland, Assaults on Public Officers: A Review of Research Evidence (Griffith University for Queensland Sentencing Advisory Council, 2020) [3.2.1];

<sup>9</sup> Ibid [2.2.3].

<sup>10</sup> Lincoln, R., & Gregory, A. (2015). Moving violations: A study of incivility and violence against urban bus drivers in Australia. *International Journal of Education and Social Science*, 2(1), 118-127.

<sup>11</sup> Dawson, S., Serafim, P., & Lowe, C. (2017). *An Investigation into Abuse and Assault of Route Bus Drivers: Statistics, Triggers, Risk Reduction, Training, and Opportunities*. Bus Association Victoria, Inc. Retrieved from: [https://www.busvic.asn.au/sites/default/files/uploaded-content/websitecontent/Resources/Reports\\_Articles/abuse\\_and\\_assault\\_of\\_victorian\\_route\\_bus\\_drivers\\_june\\_2017.pdf](https://www.busvic.asn.au/sites/default/files/uploaded-content/websitecontent/Resources/Reports_Articles/abuse_and_assault_of_victorian_route_bus_drivers_june_2017.pdf)

had decreased by 73 per cent, Lincoln and Stockill in, “*An integrated response to risks of violence against bus drivers: When on-board assaults affect safety on our roads*” found the perception of the ‘severity’ of assaults against bus drivers in Australia was increasing.<sup>12</sup>

Canadian research reporting on data from workers’ compensation claims found that despite the risk of workplace violence for police and health care workers being more than double the risk of violence in other occupations, bus drivers, and taxi drivers, amongst others, are also subject to much higher levels of risk than the general population.<sup>13</sup> Further, studies on Canadian bus drivers found reports of bus drivers being spat on, punched, or held at gunpoint in some instances.<sup>14</sup>

Lincoln and Gregory (2015) and Dawson et al. (2017) found that incidents of fare evasion and ticketing were associated with assaults on bus drivers, with timetabling issues the second most common reason for aggression associated with assaults of bus drivers.<sup>15</sup>

In 2018 the Queensland Branch of the TWU conducted a survey of 133 bus drivers into bus fare evasion in which 96.99% bus drivers reported frequent fare evasion with 67.41% reporting passengers attempting to avoid fares presented a safety risk to them and passengers. In response to the following question, *How would you characterise fare evaders you come across day to day?* the survey yielded the following responses:

- “...majority of these are also are responsible for our assaults...”
- “...likely to become aggressive if challenged”
- “Bus operators cannot do anything or they risk being abused, assaulted”
- “Foul-mouthed, aggressive, often violent, abusive, threatening”
- “Rude abusive”
- “Risk serious reaction if we push a fare evader.”
- “We don’t want a smack in the head so let them on.”
- “...aggressive. abusive. violent. dangerous. intimidating.”

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<sup>12</sup> Lincoln, R., & Stockill, S. (2015). *An integrated response to risks of violence against bus drivers: When on-board assaults affect safety on our roads*. The Australasian College of Road Safety Conference.

<sup>13</sup> Boyd, N. (1995, 1995). Violence in the workplace in British Columbia: A preliminary investigation. *Canadian Journal of Criminology*, 37(4), 491-519.(503)

<sup>14</sup> Zhou, B., Boyer, R., & Guay, S. (2018). Dangers on the road: A longitudinal examination of passenger-initiated violence against bus drivers. *Stress and Health*, 34(2), 253-265.

<sup>15</sup> Dawson, S., Serafim, P., & Lowe, C. (2017). *An Investigation into Abuse and Assault of Route Bus Drivers: Statistics, Triggers, Risk Reduction, Training, and Opportunities*. Bus Association Victoria, Inc. Retrieved from: [https://www.busvic.asn.au/sites/default/files/uploaded-content/website-content/Resources/Reports\\_Articles/abuse\\_and\\_assault\\_of\\_victorian\\_route\\_bus\\_drivers\\_june\\_2017.pdf](https://www.busvic.asn.au/sites/default/files/uploaded-content/website-content/Resources/Reports_Articles/abuse_and_assault_of_victorian_route_bus_drivers_june_2017.pdf)

- “Should bus drivers challenge offender/s they heighten their risk of exposure to violence and abuse.”

Another survey conducted by the Queensland branch of the TWU in 2016 found virtually all Queensland bus drivers had been abused on the job. Of the more than 1,000 Queensland bus drivers surveyed 96.5% reported that they had been abused, and 89.4% said they had been threatened or intimidated.

The state-wide survey of Queensland bus drivers also revealed the following:<sup>16</sup>

- 62.4% report that they get abused regularly;
- 81.2% have been threatened with physical harm, 54.1% reporting this happens regularly;
- 71.8% have had objects thrown at their bus such as rocks, bottles, metal poles;
- 74.1% experienced verbal abuse;
- 68.2% were the target of road rage;
- 17.6% experienced racial abuse;
- 27% have been spat on;
- 21.2% or one fifth have been physically attacked at the wheel (assaulted);
- 36.5% reported passengers assaulting other passengers on their bus;
- 85.9% reported vandalism;
- 95.3% reported carrying intoxicated passengers;
- 58.8% say that the procedures in place are not adequate to ensuring safety in dealing with repeat offenders; and
- 95.3% had been abused because their bus was late due to unrealistic timetables.

### **Personalised Transport and Rideshare Operators**

We would also be advocating to extend similar protections and definitions to operators within the personalised transport industry including Taxi and rideshare drivers (i.e. Uber, DiDi etc.).

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<sup>16</sup> <https://www.abc.net.au/news/2016-08-19/bus-drivers-abused-survey-transport-workers-union/7765366>

Preliminary reviews and survey data commissioned in relation to the Personalised Transport Industry Reference Group, a focus group convened by the Department of Transport and Main Roads, has indicated that passenger and driver safety is of significant concern to relevant stakeholders.

Further, a survey conducted in 2019 by the TWU National Office in New South Wales and Rideshare Driver Co-Operative of over 1100 rideshare drivers shows high rates of harassment and assault as well as low pay, high expenses and lack of consultation on changes that affect their earnings and safety.

Of the 1100 rideshare operators surveyed, 969 reported instances of harassment and/or assault with 37% receiving threats, 10% being physically assaulted, and 6% being sexually assaulted with rideshare drivers also reporting the following:<sup>17</sup>

- “In casual conversation a passenger made a joke about taking me to a remote location to rape me.”
- “I have been punched in the face, others threatened they would find out where I live and kill my family.”
- “A passenger pinned me into my seat with his body weight while he used a hand to sexually assault me.”

40% of survey participants reported they lacked safety protections as one of their biggest concerns. Drivers also reported instances of death threats, threats of harm, actual physical assaults, sexual harassment and assault. They further reported racist abuse ranging from tasteless jokes, slurs, threats of violence, with instances of angry and drunk passengers damaging and soiling vehicles, and breaking personal property. Violent passengers aren’t banned from services and drivers must deal with vehicle damage, medical bills and long-term effects. Drivers have also reported deactivation from false reports, putting them under serious pressure in order to keep their jobs.

According to survey data collected, participants also reported the following:

- “I had to file a police report because I was held at knifepoint. The rideshare platform didn’t even deactivate the people’s accounts.”
- “When I told a passenger he was in the wrong vehicle, he got angry and broke a window.”

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<sup>17</sup> Transport Workers’ Union of Australia. Rideshare Drivers Survey. 2019. <https://www.twu.com.au/ride-share/were-building-power/>

- “Too many times I’ve come close to being bashed by drunk and drug affected passengers. Every time I contact the rideshare company and they don’t even help.”
- “Contracts are signed under threats of deactivation, which forces drivers into self-destructive and often dangerous conditions of work.”

Australian rideshare operators and food delivery workers have been at the forefront of Australia’s response to the Coronavirus (COVID-19) pandemic. The service, which both personalised transport and rideshare operators, and food delivery workers are providing has been invaluable in stopping the spread of the virus and enabling people to stay safe in isolation. While doing so, and similarly to bus drivers, notwithstanding their direct interaction with the public and propensity to work alone, personalised transport drivers and transport food delivery workers are placing themselves at great personal risk. Despite their significant contribution, such transport workers are being forced into life-threatening circumstances and deserve the coverage of tougher penalties for assaults.

### **Legislation and Sentencing**

In South Australia changes have been made to the *Criminal Law Consolidated Act 1935*<sup>18</sup> extending the aggravation of an offence against public transport workers as it applies to police, health and emergency services workers which would have the effect of essentially increasing penalties for acts of violence committed against public transport workers.<sup>19</sup> Deloitte’s *Department of Transport and Main Roads Queensland Bus Driver Safety Review* as per the initiative relating to penalties acknowledges amending the *Criminal Code 1899* (QLD) and recognising bus drivers as “Public Officers” would demonstrate the value and significance of their role.<sup>20</sup>

We support the concept of ‘just punishment’; that sentences imposed should reflect the fundamental principle of proportionality and that sentencing courts must ensure the sentence imposed: ‘should never exceed that which can be justified as appropriate or proportionate to the gravity of the crime considered in light of its objective circumstances’.<sup>21</sup> While this submission argues that our transport industry workers be afforded extra protections in the form of harsher penalties, we contend sentences must not be ‘extended beyond what is appropriate to the crime merely to protect society’,

<sup>18</sup> Deloitte Risk Advisory, *Department of Transport and Main Roads Queensland Bus Driver Safety Review* (20 April 2017) 123.

<sup>19</sup> Ibid 123.

<sup>20</sup> Ibid 123.

<sup>21</sup> *Hoare v The Queen* (1989) 167 CLR 348, 354 (Mason CJ, Deane, Dawson, Toohey and McHugh JJ).



“taking into consideration the propensity of an offender to commit future acts of violence, and the need to protect the community is a legitimate sentencing consideration”.<sup>22</sup>

We support the principle of deterrence as a forward-looking, crime prevention focus which aims to dissuade offenders and other potential offenders from committing similar offences.<sup>23</sup> In tandem with the introduction of harsher penalties we would welcome, as discussed within the Griffith Literature Review, other well-targeted interventions and prevention strategies for reducing the incidence of assaults against public officers and agree that they may reduce the incidence of assaults’.<sup>24</sup> We argue that toughening penalties would communicate ‘society’s condemnation of the particular offender’s conduct’.<sup>25</sup> However, this should be balanced with the need to always consider the circumstances surrounding the offence for a person with impaired capacity, and the impact of any proposed changes on children and young people.<sup>26</sup>

The Western Australian equivalent to section 340 (section 318 of the *Criminal Code* (WA)) provides for an offence of assaulting a public officer performing a function of their office or employment (or because of this).<sup>27</sup> There is no separate definition of a ‘public officer’ set out in the offence provision,<sup>28</sup> and the definition of a ‘public officer’ that appears in WA section 1 does not refer to a person ‘discharging a duty ... of a public nature’ but rather to ‘a person exercising authority under a written law’.<sup>29</sup>

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<sup>22</sup> *Veen v The Queen* (No. 2) (1988) 164 CLR 465, 473, 475 (Mason CJ, Brennan, Dawson and Toohey JJ).

<sup>23</sup> Arie Freiberg, *Fox and Freiberg's Sentencing: State and Federal Law in Victoria* (Law Book Co, 3rd ed, 2014) 250–51.

<sup>24</sup> Christine Bond et al (n 682) iv to v *Ibid* v and see 22.

<sup>25</sup> *Ryan v The Queen* (2001) 206 CLR 267, 302 [118] (Kirby J).

<sup>26</sup> Queensland Sentencing Advisory Council. April 2020. Penalties for Assaults in Public Officers Issue Paper, [https://www.sentencingcouncil.qld.gov.au/\\_data/assets/pdf\\_file/0008/648161/issues-paper.pdf](https://www.sentencingcouncil.qld.gov.au/_data/assets/pdf_file/0008/648161/issues-paper.pdf) p.222.

<sup>27</sup> *Criminal Code* (WA) s 318(1)(d).

<sup>28</sup> “Examples of public officers, however, are set out under the definition of ‘prescribed circumstances’, which, where present, restrict the court’s discretion in sentencing in accordance with ss 318(2), (4). ‘Prescribed circumstances’ include where the offence is committed against a public officer who is: (i) a police officer; or (ii) a prison officer, as defined in the *Prisons Act 1981* (WA) s 3(1); or (iii) a person appointed under the *Young Offenders Act 1994* (WA) s 11(1a)(a); or (iv) a security officer as defined in the *Public Transport Authority Act 2003* (WA) s 3; in circumstances where the officer suffers bodily harm: s 318(5).” (Citation as per QSAC Issues Paper at p.147).

<sup>29</sup> Queensland Sentencing Advisory Council. April 2020. Penalties for Assaults in Public Officers Issue Paper, [https://www.sentencingcouncil.qld.gov.au/\\_data/assets/pdf\\_file/0008/648161/issues-paper.pdf](https://www.sentencingcouncil.qld.gov.au/_data/assets/pdf_file/0008/648161/issues-paper.pdf) p.147.

Section 318 of the Criminal Code (WA) States as follows:

**Section 318 Serious assault**

(1) Any person who—

*[(a)-(c) deleted]*

(d) assaults a public officer who is performing a function of his office or employment or on account of his being such an officer or his performance of such a function; or

(e) assaults any person who is performing a function of a public nature conferred on him by law or on account of his performance of such a function; or

(f) assaults any person who is acting in aid of a public officer or other person referred to in paragraph (d) or (e) or on account of his having so acted; or

(g) assaults the driver or person operating or in charge of—

(i) a vehicle travelling on a railway; or

(ii) a ferry; or

(iii) a passenger transport vehicle as defined in the *Transport (Road Passenger Services) Act 2018* section 4(1); or

[...]

is guilty of a crime...

As per the discussion within the QSAC Issues Paper, the specific categories of victims referred to in section 318 of the WA *Criminal Code* are broader than those mentioned within section 340 Queensland definition of a ‘public officer’ as they include, amongst others, people operating or in charge of various forms of public transport including trains, ferries, and other forms of passenger transport, such as taxis.<sup>30</sup>

In South Australia, section 5AA(1) of the *Criminal Law Consolidation Act 1935* (SA), sets out circumstances of aggravation that apply across specified general criminal offences, including assault.<sup>31</sup> Occupations prescribed for the purposes of these provisions include passenger transport work.<sup>32</sup>

<sup>30</sup> Queensland Sentencing Advisory Council. April 2020. Penalties for Assaults in Public Officers Issue Paper, [https://www.sentencingcouncil.qld.gov.au/\\_\\_data/assets/pdf\\_file/0008/648161/issues-paper.pdf](https://www.sentencingcouncil.qld.gov.au/__data/assets/pdf_file/0008/648161/issues-paper.pdf) p.222.

<sup>31</sup> *Criminal Law Consolidation Act 1935* (SA).

<sup>32</sup> “‘Passenger transport work means—(a) work consisting of driving a public passenger vehicle for the purposes of a passenger transport service; or (b) work undertaken as an authorised officer appointed under section 53 of the *Passenger Transport Act 1994*; or (c) work undertaken as an authorised person under Part 4 Division 2 Subdivision 2 of the *Passenger Transport Regulations 2009*’: *Criminal Law Consolidation (General) Regulations 2006* (SA) r 3A(2). ‘Public passenger vehicle has the same meaning as in the *Passenger Transport Act 1994*’: *Criminal Law Consolidation (General) Regulations 2006* (SA) r 3A(2). The definition of a

The Northern Territory introduced a criminal offence which applies to assaults committed on *any* worker who is working in the performance of his or her duties.<sup>33</sup> The Second Reading Speech opines that the definition of worker ‘extends further than people who provide a service to the public, such as taxi drivers, paramedics and hospital workers’ and that it ‘*extends protection to all types of lawful workers, recognising that many workers are faced with situations where they are at the mercy of violent people*’, and that ‘*Work is a fundamental cornerstone of many people’s lives, and all Territorians should be assured when they go to work they will be protected by the law*’.<sup>34</sup>

In New South Wales, section 21A(2)(a) of the *Crimes (Sentencing Procedure) Act 1999* provides a further separately listed aggravating factor that the victim was vulnerable, for example, because of the victim’s occupation such as a taxi driver, bus driver or other public transport worker.<sup>35</sup>

We would also support the introduction of initiatives that would provide training and support for public officers in working with vulnerable people, people with disabilities and other initiatives that invest in treatment and preventative strategies which address root causes of offending, and de-escalate and reduce conflict. We also believe increasing community knowledge and understanding of the impacts of assaults on public officers is important.

As referenced in the QSAC Issues Paper, we would support the raising of public awareness through effective use of media to shape behaviour toward “*desirable social outcomes*” with a successful mix of interpersonal and “*community-based communication channels*”.<sup>36</sup> For example the 2019 Queensland Government public awareness campaign to improve bus safety, with the message of zero tolerance for violence against bus drivers. We also emphasise the importance of collecting relevant data, and making information available to guide the assessment of risks, as well improving reporting avenues and responding to the needs of victims more effectively.

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‘public passenger vehicle’ under Passenger Transport Act 1994 (SA) s 4(1) is ‘a vehicle used to provide a passenger transport service’, with ‘passenger transport service’ further defined to mean: a service consisting of the carriage of passengers for a fare or other consideration (including under a hire or charter arrangement or for consideration provided by a third party)—(a) by motor vehicle; or (b) by train or tram; or (c) by means of an automated, or semi-automated, vehicular system; or (d) by a vehicle drawn by an animal along a public street or road; or (e) by any other means prescribed by the regulations for the purposes of this definition, but does not include a service of a class excluded by the regulations from the ambit of this definition [which currently are: (a) a service provided under a car pooling arrangement; and (b) a service consisting of a ride for the purposes of fun or amusement for a fare less than \$5 per ride]: Passenger Transport Regulations 2009 (SA) r 5].” (citation as per QSAC Issues Paper at p.150)

<sup>33</sup> “Criminal Code Act 1983 (NT) sch 1 (‘Criminal Code (NT)’) s 188A, inserted by Criminal Code Amendment (Assaults on Workers) Act 2013 (NT).

<sup>34</sup> Northern Territory, Parliamentary Debates, Legislative Assembly, 4 December 2012, Criminal Code Amendment (Assaults on Workers) Bill 2012 (NT), Second Reading Speech, 696 (John Elferink, Attorney-General and Minister for Justice).

<sup>35</sup> *Crimes (Sentencing Procedure) Act 1999* (NSW) s 21A(2)(1).

<sup>36</sup> Julia Coffman, Public Community Campaign Evaluation: An Environmental Scan of Challenges, Criticism, Practice and Opportunities (Harvard Family Research Project, 2002) 2.

## Conclusion

We believe the introduction of tougher penalties combined with strategies to enhance community knowledge and understanding of such penalties would assist in the reduction of instances of violence for both bus drivers within the private sector, and personalised transport drivers.

In 2018, 69% of workers who died nationwide were employed either in the transport, postal and warehousing industries representing 38 fatalities in total for that year.<sup>37</sup> As at 24 June 2019, preliminary data shows worker deaths within the same industries reached 26 fatalities.<sup>38</sup> Consistent with our 'Safe Rates' campaign, we support initiatives that help increase safety in an industry with the highest fatality rate in the country. We support the use of tougher offence strategies if they have the overall effect of improving compliance and safety and we encourage the use of public service campaigns, the reporting of cases and relevant sentencing outcomes by the media, and the Council's work in publishing information and data on sentencing if the overall effect is to change commuter behaviour, improve safety outcomes for our transport workers, and raise community awareness.

Our view is that the introduction of tougher penalties combined with a robust public service campaign to enhance community awareness would assist in reduction of further instances of violent assaults within the transport industry.

In closing we assert that assaults on a person while at work ought to be treated by the law as more serious and that assaults committed on a public officer performing a public duty should be treated as equally serious as if the same act is committed on a person employed in a private capacity.

We assert that bus drivers and personalised transport workers should be captured within the definition of a 'public officer' and the definition of 'public officer' in section 340 of the Criminal Code be expanded to expressly recognise other occupations, including public transport drivers (e.g. bus drivers and train drivers) and assaults on people employed in other occupations in a private capacity, working in particular environments or providing specific types of services (i.e. privately employed bus drivers and other transport workers, and personalised transport drivers) should also be recognised as aggravated forms of assault.

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<sup>37</sup> Safe Work Australia. 2018. *Work-related Traumatic Injury Fatalities, Australia 2018* 11.

<sup>38</sup> Safe Work Australia. "Year-to-date 2020: Preliminary worker deaths by industry of workplace." Accessed 24 June 2020. <https://www.safeworkaustralia.gov.au/statistics-and-research/statistics/fatalities/fatality-statistics-industry#number-of-fatalities-and-fatality>.

We further conclude that such reforms should be complimented with initiatives that improve community knowledge and understanding about penalties and sentencing for assaults on public officers. We argue that bus drivers and personalised transport workers deserve such protection and legislative recognition.



Peter Biagini

Queensland Branch Secretary

Transport Workers' Union of Australia