



Honourable Yvette D'Ath MP  
Attorney-General and Minister for Justice  
Minister for Training and Skills

In reply please quote: 3517382

03 JAN 2017

Mr Neil Laurie  
The Clerk of Parliament  
Parliament House  
George Street  
BRISBANE QLD 4000

Dear Mr <sup>Neil</sup>Laurie

I refer to Petition No. 2625-16 tabled in the Legislative Assembly on 30 November 2016, which requests legislative amendments to the Criminal Code, section 340(2AA) to provide for a minimum mandatory sentence of six months for the assault of a public officer.

The Palaszczuk Government recognises the challenges that frontline staff face in the course of their duties, and the need for all workers to have the safest possible working environment.

As the petitioners have identified, section 340(2AA) of the Criminal Code provides for the offence of serious assault where a person unlawfully assaults, or resists or wilfully obstructs, a public officer while the officer is performing a function of the officer's office.

The importance of this offence is that, unlike common assault which is punishable by three years imprisonment, serious assault has a higher maximum penalty of seven years imprisonment. The maximum penalty increases to 14 years if the assault against the public officer caused bodily harm; or involved biting, spitting or the application of any bodily fluid or faeces; or if the offender was, or pretended to be, armed with a dangerous weapon.

The offence of serious assault was historically applied to assaults on police and those performing a duty imposed by law. The offence was extended in 2005 to protect corrective services officers and was further extended in 2008 to protect front line public officers, for example, emergency services officers and child safety workers, who are particularly vulnerable to assault because of their employment.

Under our system of government, Parliament passes laws which set the maximum penalties for offences and also provides guiding sentencing principles. These principles are primarily contained in the *Penalties and Sentences Act 1992* and are designed to promote a consistent approach to sentencing.

Level 36  
1 William Street Brisbane  
GPO Box 149 Brisbane  
Queensland 4001 Australia  
Telephone +61 7 3719 7400  
Email attorney@ministerial.qld.gov.au

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Generally speaking, the judicial officer who sentences an offender is responsible for deciding the appropriate sentence in individual cases. In doing this, the judge or magistrate applies the sentencing principles, which include considering the maximum penalties as well as other factors such as the physical, mental and emotional harm done to the victim.

This Government has confidence in the ability of Queensland courts to impose appropriate penalties. Giving judges and magistrates discretion in sentencing is important because no two offences are the same. Sentencing is a complex process that requires the balancing of a number of competing issues.

In recognition that sentences must reflect community expectations, the Queensland Government has reinstated a sentencing advisory council under the *Penalties and Sentences (Queensland Sentencing Advisory Council) Amendment Act 2016*.

The independent Queensland Sentencing Advisory Council (QSAC), through its functions, will play an important role in promoting consistency in sentencing and strengthening public confidence in the justice system by educating and incorporating informed public opinion into the process. The QSAC also has important sentencing research and community engagement functions. The QSAC comprises a diverse membership with members having experience in criminal and other justice related matters including policing and victims of crime issues. I understand the next QSAC meeting will be held in January 2017.

I trust this information is of assistance.

Yours sincerely



**YVETTE D'ATH MP**

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