



Public Service Association of NSW

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In reply, please quote: BT:mb

30 October 2019

Ms Tracey Hall
Sheriff of NSW
Office of the Sheriff
Courts & Tribunal Services
Department of Communities and Justice
PO Box A4
SYDNEY NSW 2000

Email: tracey.hall@justice.nsw.gov.au

Dear Tracey,

Re: WHS Concerns within Penrith Hub and Satellites

On 26 September 2019, you met with myself, Latu Sailosi (PSA Organiser), Superintendent Gordon (Security, Intelligence and Risk Command) and Joanne O'Keefe (Manager, Work Health & Safety – CATS), to discuss WH&S concerns being raised by Sheriff's Officers regarding Windsor Courthouse.

Windsor Courthouse

Penrith Sheriff's Officers, rostered to Windsor Courthouse, have expressed concerns to the PSA regarding their safety, the safety of court staff and the safety the public. The bases of these concerns include the following:

- 'One Out' Sheriff's Officers
- Court Layout
- Security Facilities
- Security Procedures

One Out Sheriff's Officers

Only a single Sheriff's Officer is assigned to work at Windsor Courthouse on a day in which the Court is open. For the issues addressed below, the appointment of a single Sheriff's Officer to undertake security duties within a court, creates and exacerbates WH&S concerns generally, but is particularly pertinent in the context of Windsor Courthouse.

Court Layout

Windsor Courthouse, built in 1822, is of a layout and design that is not conducive to responding to modern threats. The internals are narrow and confined, the courtroom has only a single exit/entry and the court registry is separated only by a low counter. It is a frequent occurrence, where registry staff will seek the assistance of the Sheriff's Officer to manage aggressive court clients due to the registry staff's fear for their own safety.

The close confines of the Courthouse is an issue exacerbated by the high volume of court attendees on sitting days.

The result of the layout is that of significant restrictions in the ability of public to egress the court, as well a restriction on the Sheriff's Officers' ability to respond to, and protect from, threats.

Security Facilities

The PSA is concerned with the provision of security facilities and procedures at Windsor Courthouse. We believe that the following issues can be either eliminated or alleviated by the presence of an additional Sheriff's Officer:

- No security scanning area: The absence of a security scanning area, and the position of the entrance to the courtroom (which is connected to a veranda and is easily accessible by the public) creates a situation of considerable difficulty in conducting searches of court clients.
- Safe storage of confiscated items and SPV: The absence of an area to store confiscated items and the Sheriff's Officers SPV creates an environment of inordinate difficulty and danger, as it frustrates the Officer's ability to maintain court security. Additionally, the inability to store one's SPV, creates a considerable degree of discomfort for the Officer, which is worsened during the summer months.
- Limited CCTV: The CCTV monitoring within the registry is limited due to multiple blind spots in the Court. This creates the issue where the Sheriff's Officer is unable to view and assess incidents before attending.
- Change facilities: the absence of change room facilities creates the requirement for Sheriff's Officers to arrive and depart in uniform which raises concerns for the Sherrif's Officers' personal safety in transit. We request that Sheriff's Officers be allowed to commence duty at Penrith Courthouse, change into their uniform, appointments and SPV and be provided with a departmental vehicle for transit to and from Windsor Courthouse.

Security Procedures

Regarding security procedures, it has come to our attention that there is an expectation of Sheriff's Officers to handcuff, search and detain a defendant while under a judicial direction. We understand this occurs during sentencing matters, and the Sheriff's Officer is expected to detain the defendant within the dock until the Police arrive. The PSA is concerned that this is a further safety risk for the single Sheriff's Officer remanding the potentially volatile individual.

Work Health and Safety Legislation

The above issues may raise concerns with respect to the Office of the Sheriffs' (SHO) obligations under the *Work Health and Safety Act 2011* (NSW) ('**the Act**') and the *Work Health and Safety Regulation 2017* (NSW) ('**the Regulations**'). The potential breaches as addressed below, may be resolved by the addition of another Sheriff's Officer to Windsor on all sitting days.

Remote or Isolated Work – r 48 *Work Health and Safety Regulation 2017*

We are concerned that the appointment of a single Sheriff's Officer to Windsor Courthouse and in the absence of adjacent police presence, amounts to an instance of remote or isolated work.

Instances of remote or isolated work require management under Pt 3.1 of the *Regulations*. Part 3.1 of the *Regulations* requires the potential risk to manage, and if practicable, eliminate the risk.

This risk would be eliminated by the assignment of an additional Sheriff's Officers to Windsor Courthouse.

Duty to Provide First Aid – r 42 *Regulations*

Regulation 42 requires the SHO to ensure that an adequate number of workers are trained to administer first aid in the workplace.

Although Sheriff's Officers are trained in the administration of first aid, the PSA understands that the Court staff do not share these same qualifications. This creates the risk that in circumstances in which the Sheriff's Officer has succumbed to heat exhaustion, or has become a victim of an attack, or otherwise requires first aid attention, first aid would not be available.

Again, this is an issue which can be resolved by the reasonable step of assigning an additional Sheriff's Officer.

Health and Safety Representatives and Committees

We understand the PSA members assigned to Penrith Hub have requested the election of HSRs and the formation of the HSC. We are concerned about the formation of the requisite work group, and the compliance with the *Act*, due to seemingly absent consultation with the PSA and staff. We respectfully request information on the following:

1. Which workgroup (s 51 of the *Act*) do Sheriff's Officers assigned to Penrith Hub belong to?
2. Have negotiations occurred in the determination of this workgroup (s 52 of the *Act*)?

SHO Comments

The PSA understands the comments advanced by yourself, Daniel Gordon and Joanne O'Keefe, in that (to paraphrase) the SHO has undertaken a risk assessment of all courts in NSW, and the results of those assessments formed the basis for the allocation of resources.

The PSA also understands that the SHO is reliant upon qualitative and quantitative data, when it makes decisions on the allocation of Sheriff's Officers in the state. Accordingly, to encourage the aggregation of data, the PSA requests to be provided with the applicable Standard Operating Procedures or Policies on the preparation of Security Incident Reports and Risk Assessments.

Conclusion

Ultimately, these are all issues that won't be entirely resolved by the addition of a second Officer, but they are all issues that would be alleviated by the addition. The PSA understands that the role of a Sheriff's Officer is one of inherent risk, however that does not mean reasonable steps cannot be taken to minimise or eliminate elements of risk.

Accordingly, we request that the SHO review that distribution of Sheriff's Officers in NSW, with a view of assigning an additional Sheriff's Officer to Windsor. We view this as a reasonably practical step to ensure the health and safety of staff and the public, and accordingly in line with the obligation of the SHO pursuant to the Work Health and Safety Legislation.

The PSA is sympathetic to the staffing limitations affecting the SHO, however we do not believe that is an acceptable excuse to refrain from managing the risks relevant to Windsor Courthouse, and other Courthouses plagued by similar concerns. Accordingly, in summary of the above, we request the following:

- The SHO to review the allocation of Sheriff's Officers and SNP contractors in NSW, with a view to accommodating an additional Sheriff's Officer to Windsor Courthouse on all sitting days.

- That the Chief Magistrate re-issue his directive to Magistrates to not undertake sentencing without the presence of a Police Officer within the Courtroom.
- That the SHO review the matters addressed in this letter, with particular attention paid to the potential WH&S breaches.

The PSA would appreciate being provided with the results of any review that is not deemed confidential.

The PSA looks forward to continuing this working relationship it has with the SHO.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Ben Trainor', written in a cursive style.

Ben Trainor
for **STEWART LITTLE**
GENERAL SECRETARY