

## Government response to Report of the NSW Sentencing Council on *Assaults on emergency services workers*

The NSW Government welcomes the report of the NSW Sentencing Council on '*Assaults on emergency services workers*' (**the report**).

The NSW Government is committed to ensuring that emergency services workers are protected and that sentencing for assaults and other actions against these workers remain appropriate.

That is why the NSW Government has decided to go further than the recommendations of the NSW Sentencing Council to ensure that NSW Rural Fire Service, Fire and Rescue NSW and National Parks and Wildlife Service firefighters and NSW State Emergency Service frontline workers are also covered by a new offence of assaulting frontline workers.

The NSW Government recognises the essential public service that emergency service workers perform, and the unfortunate and significant risk of violence they face. It is important to minimise that risk through legislation, and to ensure that offenders who commit assaults against emergency services workers are punished adequately and such conduct is denounced.

The NSW Government acknowledges the work of the NSW Sentencing Council in preparing its report.

The NSW Government has carefully considered the report and supports in principle the reforms recommended by the NSW Sentencing Council.

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Number	NSW Sentencing Council Recommendation	Government Response
7.1	<p><b>New offences for assaulting frontline health workers</b></p> <p>(1) A new section that deals with assaults and other actions against frontline health workers should be inserted in Division 8A of Part 3 of the <i>Crimes Act 1900</i> (NSW).</p> <p>(2) Section 67J of the <i>Health Services Act 1997</i> (NSW) should be repealed.</p>	<p><b>Supported</b> (and going further to ensure that assaults and other actions against NSW State Emergency Service, and firefighters from the NSW Rural Fire Service, Fire and Rescue NSW and National Parks and Wildlife Service are covered)</p>
7.2	<p><b>A definition of “frontline health worker”</b></p> <p>Section 60AA of the <i>Crimes Act 1900</i> (NSW) should include a definition of “frontline health worker” as follows:</p> <ul style="list-style-type: none"> <li>(a) a person employed or engaged as a medical first responder, or</li> <li>(b) a person employed or engaged to provide health or medical treatment to patients in a hospital, or</li> <li>(c) a person employed or engaged to provide security services in a hospital.</li> </ul>	<p><b>Supported in principle</b> (with minor amendments to ensure appropriate terminology and coverage in regional and remote NSW)</p>

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7.3	<p><b>The structure and penalties of the new offences</b></p> <p>(1) The section dealing with assaults and other actions against frontline health workers should include the following offences:</p> <ul style="list-style-type: none"> <li>(a) obstructing or hindering a frontline health worker (maximum penalty: imprisonment for 12 months and/or a fine of 20 penalty units)</li> <li>(b) assaulting, throwing a missile at, stalking, harassing or intimidating a frontline health worker (maximum penalty: imprisonment for five years)</li> <li>(c) assaulting, throwing a missile at, stalking, harassing or intimidating a frontline health worker during a public disorder (maximum penalty: imprisonment for seven years)</li> <li>(d) assaulting a frontline health worker occasioning actual bodily harm (maximum penalty: imprisonment for seven years)</li> <li>(e) assaulting a frontline health worker occasioning actual bodily harm during a public disorder (maximum penalty: imprisonment for nine years)</li> <li>(f) wounding or causing grievous bodily harm to a frontline health worker, reckless as to causing actual bodily harm to that worker or any other person (maximum penalty: imprisonment for 12 years)</li> <li>(g) wounding or causing grievous bodily harm to a frontline health worker during a public disorder, reckless as to causing actual bodily harm to that worker or any other person (maximum penalty: imprisonment for 14 years).</li> </ul> <p>(2) Each of the offences in this section should only apply if the conduct is committed “while in the execution of the worker’s duty”</p> <p>(3) This section should include a sub-section equivalent to s 60(4) and s 60A(4), <i>Crimes Act 1900</i> (NSW).</p>	Supported

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7.4	<p><b>Monitoring the new offences</b></p> <p>(1) If new offences against frontline health workers are introduced, the NSW Government should monitor:</p> <ul style="list-style-type: none"> <li>(a) the rate at which these offences are charged and proven, and</li> <li>(b) the sentencing outcomes for offenders convicted of these offences.</li> </ul> <p>(2) The NSW Government should have particular regard to the proportion of people charged with these offences who are Aboriginal and whether and how sentencing outcomes for Aboriginal defendants differ from the overall population.</p>	Supported
7.5	<p><b>All offences of assaulting police officers should be contained in s 60 of the <i>Crimes Act</i></b></p> <p>(1) A new offence of resisting or hindering a police officer in the execution of the officer's duty should be added to s 60 of the <i>Crimes Act 1900</i> (NSW). This offence should be a summary-only offence with a maximum penalty of 12 months' imprisonment and/or a fine of 20 penalty units.</p> <p>(2) The offences contained in s 546C of the <i>Crimes Act 1900</i> (NSW) and in the second and third paragraphs of s 58 of the <i>Crimes Act 1900</i> (NSW) should be repealed.</p>	Supported in principle (with minor amendment)
7.6	<p><b>Offences against law enforcement officers should be extended to all correctional staff in correctional centres</b></p> <p>The definition of "law enforcement officer" in section 60AA of the <i>Crimes Act 1900</i> (NSW) should include "a person who is employed at or works from a correctional centre".</p>	Supported in principle (with minor amendments to clarify scope and include workers in Youth Justice detention centres)

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7.7	<p><b>Aggravated offences for assaults against law enforcement officers during public disorders</b></p> <p>(1) Three new offences should be added to s 60A of the <i>Crimes Act 1900</i> (NSW):</p> <p>(a) assaulting, throwing a missile at, stalking, harassing or intimidating a law enforcement officer (other than a police officer) during a public disorder (maximum penalty: imprisonment for seven years)</p> <p>(b) assaulting a law enforcement officer (other than a police officer) occasioning actual bodily harm during a public disorder (maximum penalty: imprisonment for nine years)</p> <p>(c) wounding or causing grievous bodily harm to a law enforcement officer (other than a police officer) during a public disorder, reckless as to causing actual bodily harm to that worker or any other person (maximum penalty: imprisonment for 14 years).</p> <p>(2) The definition of “public disorder” in s 4 of the <i>Crimes Act 1900</i> (NSW) should be amended to clarify that it includes a riot or civil disturbance occurring in a correctional centre.</p>	<p><b>Supported in principle</b> (with amendment to include riots or civil disturbances in Youth Justice detention centres in the definition of ‘public disorder’)</p>
8.1	<p><b>Extend sections 56 and 58(3)(a)(ii) of the <i>Crimes (Sentencing Procedure) Act 1999</i> to offences committed by inmates on remand</b></p> <p>Sections 56 and 58(3)(a)(ii) of the <i>Crimes (Sentencing Procedure) Act 1999</i> (NSW) should not be limited to offences committed by offenders while a “convicted inmate” or “while a person subject to control”. These sections should also apply to all relevant offences committed by inmates on remand.</p>	<p><b>Supported in principle</b></p>

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8.2	<p><b>Further guidance and training on sections 56 and 58 of the <i>Crimes (Sentencing Procedure) Act 1999</i></b></p> <p>(1) The NSW Police Force should provide further training to police prosecutors about s 56 and s 58 of the <i>Crimes (Sentencing Procedure) Act 1999</i> (NSW).</p> <p>(2) The Judicial Commission of NSW should:</p> <ul style="list-style-type: none"> <li>(a) include further information about s 56 and s 58 of the <i>Crimes (Sentencing Procedure) Act 1999</i> (NSW) in the Sentencing Bench Book, and</li> <li>(b) adjust the Judicial Information Research System (JIRS) to indicate when consecutive sentences have been imposed.</li> </ul>	Supported in principle
9.1	<p><b>A public education campaign</b></p> <p>The NSW Government should develop and carry out a public education campaign about:</p> <ul style="list-style-type: none"> <li>(a) the wrongfulness of violence against emergency services workers, and</li> <li>(b) the criminal consequences of such violence.</li> </ul>	Supported